The Solicitors' Journal
and Weekly Reporter.
(ESTABLISHED IN 1857.)
LONDON, OCTOBER 7, 1922.

ANNUAL SUBSCRIPTION, PAYABLE IN ADVANCE.
£2 12s.; by Post, £2 14s.; Foreign, £2 16s.
HALF-YEARLY AND QUARTERLY SUBSCRIPTIONS IN PROPORTION.

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GENERAL HEADINGS.

Current Topics.

The Assembly of the League of Nations.

THE THIRD ASSEMBLY of the League of Nations which ended its session last week, if it has not arrived at any very definite result, appears to have advanced considerably the practical establishment of the League as the authority to which all States will in the future look. With its general international policy we are not concerned. Disarmament and guarantees are not to be settled on legal principles, although it seems probable that disarmament—such as existed for a century between the United States and Canada—will be the necessary condition for the continuance of public law; disarmament, that is, in favour of such police force as may be required to preserve international order. We see that Lord ROBERT CECIL suggests that this police force shall consist of an association of Air Force contingents. But this assumes that the use of bombs from the air—banned by Great Britain at the last Hague Conference—is to be permanently allowed. "There is no physical crime at this day," wrote RUSKIN in Fors Clavigera, Letter VII, "so far beyond pardon—so without parallel in its contemplated guilt, as the making of war machinery, and invention of mischievous substance"; but that was fifty years ago and the world has not advanced since then. However, we note with satisfaction that Lord ROBERT CECIL, not often now described as K.C., and singularly enough the delegate for South Africa instead of this country, is recognized as the leader of the Assembly and the "Apostle of Disarmament."

The Relaxation of Building Bye-Laws.

IN NOTICING recently (*ante* p. 764) a circular of the Ministry of Health with respect to the revision of Building Regulations, we pointed out that it treated the temporary provisions of the Housing, &c., Act, 1919, as still in force, though they expired according to the Act on 31st July last, but we suggested that there had probably been an extension of the period. This, in fact, is the case, and by the Expiring Laws Act, 1922, s. 3 and Sched. III, Part II, s. 25 of the Housing Act is continued till 31st December, 1923. This we learn from the new regulations which we print elsewhere. Section 25 provides that, notwithstanding the provisions of any building bye-laws, a local authority may consent to the erection and use for human habitation of any buildings erected or proposed to be erected in accordance with any regulations made by the Ministry of Health. Such regulations were made in 1920, and the position appears to be that while s. 25 has been extended, the regulations under it expired on 31st July.

Accordingly new regulations are required, but these embody conditions identical with those of 1920. The expression "building bye-laws" is defined by s. 40 of the Act of 1919, and includes bye-laws made under the Public Health Act, 1875, with respect to new buildings and the drainage thereof, and under local Acts dealing with the same matters, and the laying out and construction of new streets.

The Treaty Charge on Private Property.

THE CURRENT NUMBER of the *Fortnightly Review* has an article by Sir THOMAS BARCLAY, under the title "Private Property in the Melting Pot," endorsing criticisms of the Treaty Charge on private property of ex-enemy nationals, which have been made by persons interested in the observance of International Law. The nature of the charge is well known. It arises under Art. 297 of the German Treaty by which the Allied Powers reserve the right to retain and liquidate all "property, rights and interests" belonging at the date of the Treaty coming into force to German nationals within their territories, and in pursuance of this, the Treaty of Peace Order, 1919, by s. 1 (xvi), creates a charge on all such property, rights and interests, for payment of claims against the ex-enemy countries and their nationals. Against this there is the provision of Art. 297 (*j*) that "Germany undertakes to compensate her nationals in respect of the sale or retention of their property, rights or interests in Allied or Associated States." Sir THOMAS BARCLAY regards this arrangement as an infringement of the rule which had gradually come to be established, and which was incorporated in the Hague Rules for the conduct of war, that private property on land cannot be confiscated. "During the late war," he says, "all considerations of private right in respect of non-combatants were cast to the winds, and governments set an example of misappropriation which was as destructive of individual right and liberty as warfare itself. Private property ceased to be respected." And he points out that the violations of the right of private property involved in the Treaty were only the continuation of similar violations on the part of the belligerent countries during the war. The argument that there is no confiscation, because Germany has to compensate her own nationals, would not be convincing even if such compensation were in fact given. But it is, we believe, generally admitted that it is not given. Sir THOMAS BARCLAY omits to notice the protests made in the House of Lords in the debates on this question of 6th April and 26th June, in which numerous instances of hardship were given; nor does he refer to the ameliorations proposed by Lord Justice YOUNGER'S Committee in their report of 5th May [Comd. 1687]. In fact, certain relaxations have been made by the Government in deference to these protests, but they do not alter the fact that the principles of Public Law which appeared to have been established in respect of private property have been, in the opinion of persons well qualified to judge, seriously violated.

The Treaty Charge and Restraint on Anticipation.

THE PROVISION of the Treaty of Peace Order to which we have referred above, raised an interesting question in *Re Rush* (1922, 1 Ch. 302, Russell, J; 1922, W.N. 276, C.A.). At the time when the Treaty came into force a married woman was entitled in reversion to the income of trust funds for her life subject to restraint on anticipation. The effect of the restraint, of course, is that the married woman cannot dispose of the income before it is due, and cannot, therefore, create any charge upon it. But did the confiscation clause of the Order override the restraint and vest the life interest in the Public Trustee as Custodian of ex-enemy property? RUSSELL, J., held that it did, but the Court of Appeal reversed his decision, and it seems reasonably clear that this is right. The Legislature can, of course, override the restraint, and this has been done in various modern statutes, *e.g.*, s. 61 (6) of the Settled Land Act, 1882. But in the absence of express provision to that effect a statutory charge on income seems to take effect only on the income as it exists, *i.e.*, on the income subject to a restraint on anticipation.

American Criminal Procedure.

WE REFERRED last week in a review of some legal novels to an American commendation of the novels of Mr. ARTHUR TRAIN. Our curiosity was excited, and though we have not so far been able to see *By Advice of Counsel* or the other novels mentioned, our inquiries have discovered a very interesting and entertaining book, *The Prisoner at the Bar*, which was written by Mr. TRAIN, described as Assistant District Attorney, New York County, in 1906, and published in London by T. WERNER LAURIE in 1907, and previously, we gather, by Charles Scribner's Sons in the United States. Probably the book is known here, though new to us; in any case it deals in a practical way with many sides of the administration of the criminal law—indeed, its sub-title is *Sidelights on the Administration of Criminal Justice*. The author's comments follow the accused from his arrest through the various stages of his career until sentence, including chapters on the Judge and the Jury and prefatory chapters on What is Crime? and Who are the Real Criminals? The real criminals of modern society Mr. TRAIN sees to a large extent in big financial swindlers, and he reminds us that the inhabitants of Lilliput were of the same opinion. "They look upon fraud as a greater crime than theft....for they allege that care and vigilance, with a very common understanding, may preserve a man's goods from theft, but honesty has no defence against superior cunning." The chapter on the Grand Jury contains criticisms of that institution similar to those recently made in this country, and Mr. TRAIN appears to be strongly opposed to it for ordinary cases, though he would retain its powers of independent inquiry and prosecution. It was pointed out here, when the matter was discussed at the beginning of the year (see *ante*, pp. 188, 212), that the action of the Grand Jury is not confined to revision, but that it has the right of initiating a prosecution. The American Colonies took over the Grand Jury with other features of English law, but in numerous States its use has been modified, and no doubt it has outlived its utility. In the chapter on the Judge, Mr. TRAIN pays a high compliment to the Judiciary here. "The English bench occupies an altitude practically unknown in this country"; but this, we imagine, should be taken with qualification in respect of the United States Supreme Court and the higher civil courts generally. And for the "Law's Delays" the chapter on Mr. APPLEBOY'S prosecution of his cook, MARIA HOLOHAN, for stealing a family silver teapot which he rescued as she was handing it to the pawnbroker, gives a good idea of what his novels may be like. Ultimately, after six months' delays, MARIA "skipped her bail" and retired to "the ould counthry," and then a new chapter, "Red Tape," records Mr. APPLEBOY'S adventures in getting back in a damaged condition the teapot which the police had impounded. Exaggerated, no doubt, but then DICKENS, too, lived on exaggerations.

New Houses and the Rent Restrictions Acts.

SIR KINGSLEY WOOD, in his interesting paper at LEEDS on the operation of the Rent Restriction Acts, to which we referred last week, very properly drew attention to one point which is constantly overlooked in public discussions as to the advisability of continuing the statute. We refer to the fact that "new houses" are entirely excluded from its operation. Now, it is frequently contended by advocates of complete return to the *status quo ante* 1914 that the existence of the Act, with its artificial restriction of rents, is the chief reason why the building of new houses is at a standstill. It is difficult to see how this can be so. The builder of a new house can charge whatever rent the tenant is willing to pay, so that he is not affected by the existence of the legal restrictions, except indirectly. Of course, it may be contended that the existence of an immense number of houses, the rental of which is by law confined to a low figure, prevents the imposition of higher rents in the case of new houses. This is a plausible contention, but we think it is fallacious. For, just at present, furnished houses being practically outside the Act—in fact,

although there is a theoretical limit to the amount of profit which can be taken on furnished lettings—it is notorious that furnished flats everywhere command exorbitant rents. A flat, where the tenant pays a rental and rates of about £50, will be let furnished at rentals varying from £3 to £6 a week. Evidently the competition of low-rented statutory houses does not keep down the rentals of furnished houses, as it ought to do, if the competition argument were sound. There seems no reason, then, for thinking that it prevents the building of new houses; the builder can be sure of an economic rent in nearly every case. It may, however, be contended that there is a psychological result which we have not taken into account, namely, that the builders of new houses are afraid that the law may be extended so as to cover them: the present Acts being the "thin end of the wedge," leading to permanent Rent Courts. But surely such speculative possibilities do not influence the mind of the average builder anxious to erect his house and sure of a sale long before such a policy is likely to be adopted, if ever. The chief cause of cessation in building, we fancy, is the general depression of business enterprise, due to the existence of a long continued commercial slump: men do not readily succeed in getting anyone to find the capital they seek in order to tackle new ventures. With the passing of the present depression this should pass away.

Premiums in Disguise.

ANOTHER EXCELLENT point which we note in Sir KINGSLEY WOOD'S paper relates to the question of "premiums" in the case of houses within the Rent Restriction Act. Of course, in the case of lettings for less than fourteen years, the statute forbids the exaction of a premium; but this is usually evaded by a transparent device. A few blinds and pieces of linoleum, described magnificently as "fittings," with perhaps a hall stand and the like, euphemistically styled "furniture," are left in a house by the tenant who is about to vacate it, and the purchase of these by an incoming tenant is made a condition precedent of the letting to him. The purchase price is nearly always fixed at a rate, say £300, which obviously bears no real relation to the value at all. It is impossible to avoid the conclusion that such a transaction is merely a "colourable" sale of fittings, not a *bonâ fide* bargain at all, and that it is in substance an indirect mode of exacting a premium. That being so, there seems no reason why it should not be treated as a punishable offence under the existing law, if once a serious attempt to enforce it was made in the Courts. Of course, it is not easy to say exactly where a "colourable" transaction ends and a real one begins; no doubt borderline cases would exist: but in ninety-nine cases out of a hundred the Court should have no real difficulty in deciding which of the two was before it.

A Famous Unconstitutional Act of Congress.

EX-CHIEF JUSTICE PARKER of the United States, has recently pointed out that the first decision of the Supreme Court declaring an Act of Congress to be unconstitutional and therefore void, was one which purported to confer on that Court itself greater powers than the Constitution allowed! The actual decision in the case in question, *Marbury* v. *President Madison*, is thus stated in the headnote: "Congress have not power to give original jurisdiction to the Supreme Court in other cases than those described in the Constitution. An act of Congress repugnant to the Constitution cannot become a law." It is exceptionally interesting that the first decision of the Supreme Court of the United States declaring a statute unconstitutional concerned one which undertook to confer upon that court a larger original jurisdiction than it was authorized to enjoy by the language of the Constitution. Hence the effect of its decision was to refuse to exercise authority which the Congress without constitutional permit undertook to confer upon it. The judgment was pronounced by a men who will be known as "the great Chief Justice MARSHALL, the expounder of the Constitution" as long as the United States Republic exists.

Health Week.

HEALTH IS a matter which appeals alike to lawyer and layman and we are interested to see that next week, October 8th-14th, is to be "Health Week." The promoters feel that the work which is being done throughout the year by the Government and the Local Authorities can be usefully supplemented by the interest which this special effort will arouse. The experiment was made last year in Sydney with great success, and is being repeated this year. The Public Health Association of Australasia, in conjunction with the Local Authorities in all the principal towns, is organizing a Health Week during the same period as the Health Week here. That there is plenty of room for health improvement is sufficiently obvious, and statistics show that it can be secured by proper methods. A comparison of heights and weights at a Liverpool Council School as compared with Port Sunlight School revealed the fact that children of fourteen years of age in the Liverpool School were 55·2 inches in height on the average, against 60·7 in Port Sunlight, and 71·7 lbs. in weight as against 105 lbs. in weight. Again, the Medical Officer of the Local Government Board for Scotland, referring to the Glasgow figures prepared by him, says: "It cannot be an accident that boys in one-roomed houses in Glasgow should be 11.7 lbs. lighter and 4.7 inches shorter on an average than boys from four-roomed houses." If Health Week can encourage the provision of better dwellings and the adoption of wholesome habits of life, it will be an institution worth perpetuating.

Legal Education.

WE print elsewhere the paper on "The Development of Legal Education" read by Mr. W. B. GORDON, of Bradford, at the Leeds Meeting. He urged the establishment of more Law Schools in the provinces, and pressure, short of compulsion, upon law students to attend such schools. But compulsion has already been introduced by the Solicitors Act passed at the end of last session, and the development which Mr. GORDON desires is in course of attainment. As was stated at the meeting, the Council of the Law Society have recently appointed a committee to deal with the new situation created by the requirement of one year's attendance at a Law School. The suggestion of Mr. GORDON that entry into articles in a district from which a Law School cannot conveniently be reached should not be permitted seems to be inconsistent with the proviso in the Act that exemption shall be granted in such cases. The Bill as introduced gave the Law Society a discretion as to exemption, but as the result of opposition on the Second Reading, the discretion was changed to an obligation to grant exemption where the Society is satisfied that for geographical or other reasons attendance is impracticable. It does not seem to have been suggested in the discussion on the Bill that the geographical difficulty should be met by depriving solicitors in the more remote country districts of the right to take articled clerks, and having regard to the objections to universal compulsory attendance at a Law School made by Mr. FOOT and others, it is clear that the suggestion would not have been entertained.

It is interesting to compare the advance in legal education which has thus been achieved with the more ambitious scheme which is now before the profession in America. It is, as Mr. ELIHU ROOT stated at the Cincinnati meeting of the American Bar Association last year, founded upon the elaborate Report on Training for the Public Profession of the Law issued by the Carnegie Foundation for the Advancement of Teaching (see 65 SOL. J., p. 838). It requires that every candidate for admission to the Bar shall give evidence of graduation from a law school complying with certain conditions which include (*a*) It shall require as a condition of admission to the school at least two years' study in a college; and (*b*) It shall require a three years' course if the students devote all their time to law studies, and a longer course if other studies are added. Thus, there would be, first, a two years' college course, and then at least a three years' law school course. But graduation would not give the right of

admission to the Bar. In addition, the candidate would be subject to an examination by public authority to determine his fitness. Resolutions embodying this scheme were accepted by the American Bar Association, and were submitted last February to the Conference of Bar Association Delegates at Washington. This is a body allied to the American Bar Association, but specially representing also the State Bar Associations and other local Bar Associations. The Conference lasted two days, and the speakers included Chief Justice TAFT and Mr. ROOT.

The scheme, though ultimately adopted without amendment, met with opposition. For instance, the delegate from Tennessee was quite sure that no such education was required in his State.

> "I can go out in the mountain sections of the State of Tennessee to-day, and you won't find any law cases there except hog cases and ejectment cases, but I can find a lawyer there who can try an ejectment case according to Tennessee law, who can run off his feet any of the distinguished lawyers we have heard speak here this morning, not even excepting the distinguished Nestor of the American Bar.
>
> "To go back to Tennessee, to the Legislature there, and say that in order to practice law, in order to try an ejectment case, a man had to have two years' academic work and three years' law work in college, why they would think I had lost my mind, and they would have a right to think so."

This, though put picturesquely, is an intelligible attitude and Mr. JOHN B. KEEBLE, the speaker, had, he stated, had long experience both as a professor in the law school, and as a practising lawyer. His point was that "the practice of the law is an art as well as a science, and no man ever becomes a great lawyer until he has learned it in the school of experience—you cannot learn to try cases anywhere except by trying them." Undoubtedly that is so. The school of experience is the greatest school of all. But to maintain the standard of the law there must be the foundation of general and legal education on which it can work. And to illustrate the variety of opinion which the Conference shewed we may instance the speech of Mr. ROWLAND TAYLOR, of Idaho, who said that they had all kinds of people in their State, but they realized that they must have the best in every line. "About 80 per cent. of the members of our Legislature are farmers, and I believe those farmers want the best obtainable in the line of lawyers, and I believe that they will make some provision to take care of us in our State University if we raise this requirement." It should be noted that in each State, apparently, legislative provision would have to be made to give effect to the scheme, though one section of the resolution passed by the Conference recognised that in particular States it might not be immediately practicable to bring the educational opportunities up to the required standard.

Mr. GORDON in his paper, to which we have referred above, compared the modern improvement in medical training—the abandonment of the apprenticeship system and the concentration of Schools of Medicine at hospitals—with the adherence of legal training to apprenticeship. This side of the subject was ably discussed at the Conference by Dr. WILLIAM H. WELCH, of Maryland, who attended as a doctor for that purpose, but we have not at present space to say more than that the improvement in medical training, with its present requirement of two years' college work for admission, has been accompanied by the reduction of medical schools from 162 in 1904 to 83 in 1921, presumably in consequence of the less efficient schools disappearing. Law Schools, on the other hand, have increased from 102 in 1900 to 147 in 1921, but of these over half are part-time schools, and 89 require no college work for admission. The condition of things in America is very different from the condition with us, and there is perhaps no occasion for the gathering of such a distinguished assembly as that at Washington to discuss legal education, though the American debate is full of instruction for those interested in legal education here. We have derived our information from the complete report printed in the special number of the *Massachusetts Law Quarterly* for July. We may note that the Chairman on the second day was Mr. WILLIAM MCADOO, who was the Secretary of the Treasury from 1913 to 1918, and had the control of railway transport during the war. The whole movement is intended to raise the moral tone of the profession quite as much as its legal proficiency.

Money Paid by Mistake.

IT is very old law that in certain cases money paid under a mistake can be recovered by the payer. The form of action is in debt, in fact one of the old *indebitatus* common counts; the plaintiff sues for "money received by the defendant to the use of the plaintiff." In reality the ground of action is one of relief in equity; the payee is held by a legal fiction to be a trustee of the moneys so paid him for the payer; but this was one of the half-a-dozen cases in which Lord MANSFIELD permitted an action in debt to be brought at common law for what is essentially an equitable debt. An interesting account of the expansion of the Common Law to comprise these few equities will be found by the curious in the judgment of Mr. Justice PARKER (as he then was) in *Lodge* v. *National Union Investment Co., Ltd.* (1907, 1 Ch. 300). It is somewhat remarkable that this fiction of an implied contract to repay money which one cannot equitably retain did not succeed in extending its operation so as to include all claims for a specific fund by a settlor against a trustee: in that case a large group of chancery suits would have been automatically converted into common law actions for debt. The fiction, however, seems to have exhausted its policy on a few special cases, such as "money paid under a mistake of fact," money obtained by fraud or extortion," "money in the hands of an agent for his principal."

Not only is the remedy in *indebitatus assumpsit* for money paid by mistake a very special one; but it does not even extend to money paid under a mistake of law. Here the strange rule that *Ignorantia Legis neminem excusat* operates to disentitle the unfortunate payer to recover on discovering the mistake. One legal fiction is ousted by another. For there is no more extraordinary fiction than the time-honoured dogma of our jurisprudence which assumes that the plain man must be deemed to know, not only all the multiplicity of common law rules, but also the vast and intricate system of statute law, as well as even the most minute of Local Government Bye-laws, Board of Trade Regulations, Orders in Council. Even where these have been recently enacted and not yet printed for distribution by the King's printer, the layman is presumed to know all about them; he is liable to criminal punishment for their breach, to an action in tort, or to proceedings for damages sounding in contract. As His Honour Judge RUEGG humorously remarks in his "Commentary on the Common Law," everyone is presumed to know the law *except* judges; these are deemed not to know it until counsel have told them all about the law. Of course, this paradox has an historical justification. The law administered by the King's judges was originally the general custom of the realm which every man ought to know and which was proved before the court by jurymen; whereas the judge was often a Norman lawyer from France who did not know the English custom. Whatever the reasonableness of its origin, the rule has now become decidedly irrational.

But the artificiality of this distinction between mistake of fact and mistake of law does not end here. For both "fact" and "law" get a quite peculiar and unique meaning in this connection. For instance, it does not include money paid under mistake as to the existence or effect of a Private Act of Parliament. Nor money paid in ignorance of one's title to land, when that depends on the legal construction of documents: *Cooper* v. *Phibbs* (1867, L.R. 2 H.L. 149); *Barber* v. *Brown* (1856, 1 C.B. N.S. 121).

The artificial character of the rule, however, sometimes enables a court to do substantial justice by resorting to it in unexpected circumstances. A very striking example is afforded by the recent case of *Holt & Co.* v. *Markham* (*Times*, 1st August), when Mr. Justice LUSH had to consider a claim by a bank who act as service agents to recover a sum overpaid by the bank to a demobilized officer owing to their mistaken interpretation of the War Office Regulations governing demobilization. This the learned judge held to be payment under a mistake of law, and therefore not recoverable, although at first sight it certainly bears a remarkable resemblance to mistakes in the construction of Private Acts or as to title, both of which—as pointed out in the preceding paragraph

—have been held to be mistakes of fact, so as to render sums so paid in error recoverable on the discovery of the mistake. The circumstances of the case, however, were so interesting and of a kind so likely to have occurred quite frequently, that it may be useful to state them.

Colonel MARKHAM was a regular officer who had retired some years before the late war. But early in 1914, hearing that a difficult international situation had arisen in which old officers might be needed, he applied for re-employment and was accepted: he was not at once gazetted to any post, but was placed without pay on an emergency list of officers awaiting posting. Next came the war some months later. He was then posted for service, and remained on active service until demobilized in the usual way on the conclusion of hostilities. Like other officers so demobilized, he applied to the Army bankers for payment of his gratuity, and by arrangement with the service authorities, the amount was advanced to him by the bank, subject to the usual undertaking that he would repay any sum overpaid him as the result of any mis-statement of fact made by him. In computing his gratuity all the facts were quite correctly stated by him, and were before the bank. Both overlooked a provision in the regulations which deprived officers actually on the active service list when war broke out of certain benefits given to officers who entered the service or returned to the service *after* the outbreak of the war. The result is that he was paid gratuity on a higher basis than that to which he was entitled. When the mistake was finally discovered the Treasury refused to accept liability for the excess, and therefore the bank took proceedings to recover it from Colonel MARKHAM.

The learned judge said that the case raised an interesting question, and some of the points involved were of considerable difficulty and complexity. It seemed a little curious that owing to Colonel MARKHAM's having taken the patriotic step of offering his services in 1914 he should be deprived, under the Regulations of the sum of £297 12s. to which he would be entitled if the view of the Air Ministry was right. This, it was said, was the effect of one of the numerous "Weekly Orders" issued by the Air Council when the problem of demobilization was being dealt with. If he had not offered his services, and been thereby placed on the Emergency List, it was admitted that he would have been entitled to the £744 which was paid to him. It was only because he offered his services that he became entitled to the smaller sum. Hence the surcharge on the bank, and the claim now made against the defendant. The money was paid over in 1919, and it was not until February, 1921, that the bank first suggested to Colonel MARKHAM that he had been paid too much and made a claim upon him, and by that time the whole of the sum had been expended in an unfortunate investment. Although the defendant now said that the result of an adverse judgment would mean bankruptcy to him, the bank could not be deprived of their right to recovery if they had paid under a mistake of fact simply because hardship would result, and the defendant had been unfortunate enough to lose the money.

The questions which the learned judge had to decide were: Did the defendant receive £297 12s. more than he was entitled to, and, if so, was the excess paid under a mistake of fact, and were the circumstances such that the plaintiffs could recover it in an action for money had and received? If the plaintiffs had paid this money under a mistaken view of the various Orders and Regulations, clearly they could not recover it, as it would be a mistake of law, or analogous to a mistake of law. He drew the inference from the evidence for the plaintiffs and the correspondence with the Air Ministry that they had the means at hand to inform themselves of the exact legal effect of the defendant's being on the Emergency List, and they had failed to do so.

The case of *Kelly* v. *Solari* (9 M. & W., 54), relied upon on behalf of the plaintiffs, was not on all fours with this, and to support such an action as the present it must be shown not only that there was a mistake of fact, but that it would be "against equity, justice, and good conscience" for the defendant to retain the money, to use the very words of Chief Baron KELLY in another case. As a matter of discipline, it might be necessary for an officer to study the innumerable Orders issued, but as a matter of justice and common sense he (the learned judge) would decline to hold that it was the defendant's duty, as between himself and the bank, to make himself acquainted with the innumerable Orders issued weekly and almost daily on every conceivable variety of subject. His lordship took the view that the case fell within the principle on which the Court acted in deciding the case of *Skyring* v. *Greenwood and Cox* (4 B. & C., 281), and therefore, in all the circumstances, he gave judgment for the defendant, with costs.

Res Judicatæ.

Vesting of Legacies.

(*Re Ussher, Foster* v. *Ussher*, 1922, 2 Ch. 321.)

The distinction is well-established between a gift of a legacy accompanied with a direction that it shall be paid on the legatee attaining a certain age, and a legacy where the gift itself depends on the attainment of the age. The former is vested, and, in general, a direction to postpone payment to a later age than twenty-one is not effective: *Re Couturier* (1907, 1 Ch. 470); the latter is contingent until the attainment of the age; where, for instance, the legacy is given at twenty-one, or on the legatee attaining that age: Williams on Executors, 11th ed., pp. 973 *seq.*; Jarman, 6th ed., pp. 1399 *seq.* But the rule yields to expressions in the will which imply, or are held by the court to imply, a different intention, and in particular a legacy, which is *primâ facie* contingent on attaining a specified age, will be vested by a gift to the legatee of the intermediate income: *Hanson* v. *Graham* (6 Ves. 239). But much doubt has arisen over the case where the testator does not give the whole income to the legatee, or direct the whole to be applied for his maintenance or benefit, but confers on the trustees a discretionary trust to pay or apply the whole or part of the income. In *Fox* v. *Fox* (19 Eq. 286), Jessel, M.R., held that such a trust is effectual to vest the legacy, so that in that case it was not void for remoteness, and he repeated this view in *Re Parker* (16 Ch. D. 41, 46); but North, J., expressed his dissent in *Re Wintle* (1896, 2 Ch. 711). In *Re Turney* (1899, 2 Ch. 739), *Fox* v. *Fox* was referred to with approval by Lindley, M.R., and Sir Francis Jeune, though the question did not arise for decision, and Sir George Jessel's view was adopted by Neville, J., in *Re Williams* (1907, 1 Ch. 180). An attempt is made to reconcile *Fox* v. *Fox* and *Re Wintle* in Jarman (6th ed., p. 1414), and in the recent case of *Re Ussher* (*supra*), Astbury, J., pointed out that the gifts in those cases were wholly different. This made it easier for him to pass over the disapproval of North, J., and to follow the statement of the rule by Jessel, M.R., supported by the approval of other judges. Hence in the case of a gift of residuary realty and personalty on trust to be conveyed and transferred to the legatee when he attained twenty-five years, with a discretionary trust of the whole or part of the income for his maintenance, education, or benefit, it was held that the legatee took a vested interest at the death of the testatrix, and was entitled to an immediate conveyance and transfer on attaining twenty-one. We need not here consider why the courts hold themselves at liberty thus to disregard the obvious intention of the testator. Mr. Justice Astbury, it may be noted, merely professed to follow authorities by which he considered himself bound.

Service Flats and the Rent Restrictions Act.

(*Hocker* v. *Solomon*, 91 L.J. Ch. 78.)

On the question whether service flats are within the Rent Restriction Acts, we have more than once referred to the leading case of *Nye* v. *Davis* (1922, W.N. 14), but an important decision in a contrary sense of Mr. Justice Sargant, given last year, has not been noted in these columns. It is worth referring to, as it is certainly difficult to reconcile with the decision of the Divisional Court in *Nye* v. *Davis* (*supra*), that a mere obligation on the landlord to provide for the carrying upstairs of a tenant's coals and the removal of house-refuse from his flat are sufficient "attendance" to take the premises outside the Act by virtue of s. 12 (2) (i). The facts in *Solomon* v. *Hocker* were: A flat of a rateable value less than £105 on 3rd August, 1914, was let at the yearly rental of £170, and it was agreed that for the additional sum of £30 per annum, "payable with and recoverable as rent," there should be included certain attendance, and it was provided that "these presents are also subject to the tenant having the use of certain articles of furniture, carpets, etc., as arranged and as used heretofore." The flat was not completely

furnished by the lessors, but the tenant had the use of certain articles of furniture, the property of the lessors. In an action for recovery of possession of the flat on a notice to quit, Mr. Justice Sargant made the following findings:—(1) that on the construction of the agreement the flat was not let at a rent which included payments in respect of attendance; and (2) that the lessors had treated the articles of furniture as of trifling importance, so that it could not be said that the rent reserved included payments in respect of their use. The flat was therefore not excluded from the operation of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, and recovery of possession was refused.

Sale of Goods by Description.

(*Walls v. Centaur Co.*, 126 L.T. 242.)

It is not very often that a Chancery Judge is called upon to interpret those complicated sections in the Sale of Goods Act which affix warranties in the cases of goods sold by description, etc.; but in *Walls* v. *Centaur Co.* (*supra*), Mr. Justice P. O. Lawrence found that he had occasion to consider the interpretation of s. 14 of that Act. The facts were rather unusual and may be summarized briefly. The plaintiff wrote to the defendants inquiring the price of a certain type of bicycle sold by them, and thereupon was sent the defendants' catalogue. Subsequently the plaintiff went to the defendants' depot and selected a bicycle, The catalogue contained at the end terms of sale, which excluded the implied warranty under s. 14 of the Sale of Goods Act, 1893, and contained in lieu a modified warranty and conditions as to repair free of charge in case any fault should be developed in a bicycle sold. An erratum slip at the beginning of this catalogue had a notice referring to the terms of sale, and then there were ten pages, each with a model of a bicycle depicted, and at the foot of the model on the last page was a notice calling attention to the terms of sale at the end. The plaintiff did not read the slip, and stopped short at the third page, on which was a model of the bicycle he intended to buy, and did not appreciate that the bicycles were offered on any special terms. Nothing was said to him at the depot about any special or modified warranty, and no reference was made to any special terms in either the invoice or receipt which were given. If the special terms of sale were imported into the contract for sale of the bicycle, the claim the plaintiff made for damages could not succeed. The learned Judge on these facts held that the bicycle was not contracted to be sold subject to the special terms and warranty, and therefore there was a warranty implied by s. 14 of the Sale of Goods Act, 1893, that the bicycle was reasonably fit to be ridden by the plaintiff, and that as it was owing to the faulty construction of the bicycle that an accident occurred whereby the plaintiff was injured, the implied warranty had not been fulfilled and the plaintiff was entitled to the damages claimed.

Duty of Bankers in respect of Countermanded Cheques.

(*Read* v. *Royal Bank of Ireland*, C.A. 1922, 2 I.R. 27.)

An interesting decision of the Irish Court of Appeal in respect of a debt paid by cheque was given in *Reade* v. *Royal Bank of Ireland* (*supra*). The plaintiff had a current account at the defendants' bank, which was in funds. The plaintiff drew a cheque on this account in payment of a gaming debt, but prior to its presentation countermanded by telegram payment of the cheque. Notwithstanding the countermand, the defendants subsequently honoured the cheque on presentment. The plaintiff did not sue the payee of the cheque for the recovery of the money, nor did he prove that he could not have recovered from the payee. The court held, that the defendants were guilty of a breach of duty as bankers, and that the plaintiff was entitled to recover from them the amount of the cheque.

Reviews.

Hindu Law.

A Treatise on Hindu Law and Usage. By John D. Mayne, Barrister-at-Law, Formerly Officiating Advocate of Madras. Revised and Edited by V. M. Coutts Trotter, M.A., one of H.M. Judges of the High Court at Madras. Ninth edition. Madras: Higginbothams, Ltd.

This work naturally carries the mind back to Sir Henry Maine's "Ancient Law" and the speculations as to the sources and growth of law founded on the systems of the East which made that eminent jurist famous. The late Mr. J. D. Mayne is known best to English lawyers by his work on Damages, the ninth edition of which was published two years ago, but he was probably more interested in Hindu Law, and he followed it out on its practical side in the present work, which also has reached the ninth edition. He was distrustful, as his preface to the first edition shewed, of attempts to settle the details of Hindu legal relations by short and simple codes, calculated he thought to produce much more dissatisfaction and expense than the law as then administered; and although he was ignorant of Sanscrit, and had to depend on translated works, yet he endeavoured to discover and expound the actual Hindu Law and Hindu usages, as handed down from antiquity and varied and developed in daily life, which should be the guide of judges. In the preface to the third edition he referred to new materials for the study of Hindu Law which had come to light; in particular to the late Prof. Max Müller's Series of the Sacred Texts of the East; but he regarded this source of information as practically closed. "What we really want is that well-informed natives of India should take a law book in their hands, and tell us frankly, under each head, how much of the written text is actually recognized and practised as the rule of every-day life."

A book written with this conception of what was required for the practical administration of the law in India, and by a lawyer of Mr. Mayne's knowledge, research, and ability, has naturally proved of great service. The first edition was published in 1878, so that the appearance of a ninth edition in little over forty years shows that it rapidly gained and has steadily maintained a high reputation. In the hands of the present editor, Mr. Justice Coutts Trotter, it has been extensively revised, and while preserving Mr. Mayne's text as far as possible, it has been re-written wherever necessary to make it accord with the actual law prevailing at this day. The chief alterations are in the chapters on Adoption, Debts, Religious Endowments, Partition, and Inheritance, and in the passages dealing with impartible estates. The book, of course, is intended chiefly for use in India, but questions of Hindu Law come before the Judicial Committee as the final Court of Appeal, and the present edition will be valuable to practitioners there as well as to students of Hindu customs in this country. The latter will find much to interest them in the chapters dealing with family life—marriage and sonship and adoption—and with family property.

Books of the Week.

Probate.—The Practitioner's Probate Manual. Being a Guide to the Procedure on Obtaining Grants of Probate and Administration, with the Rules, Orders and Fees, and Directions as to the Payment of Probate and Estate Duty. By Charles H. Picken. Thirteenth edition. Waterlow and Sons, Ltd. 8s. 6d. net; post free, 9s. 3d.

Tort.—Liability for Dangerous Things. By J. Charlesworth, LL.D. (Lond.), Barrister-at-Law. Stevens & Sons, Ltd. 10s. net.

Correspondence.

Solicitors Act, 1922.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—Section 1 (2) of this Act provides that "the Board of Education, after consultation with the Law Society and with the concurrence of the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls, or any two of them, may by order make regulations adding to the examinations, the passing of which exempts from the preliminary examination, and prescribing, if it appears necessary, the conditions and standards to be complied with in connection with any examination which may be so added."

Section 1 (4) provides that "any disputed question as to whether an examination is for the purposes of section 1 (1) (*b*) an examination corresponding to the matriculation examination shall be decided by the Board of Education."

At last Bureaucracy has gained a foothold in the control of what has hitherto been an independent profession. The Board of Education is in future to guard one of the entrances, and it will be competent for the Board with the "concurrence" of two of the Judges above mentioned to tell the Law Society who may or may not be articled without passing the Preliminary Examination. It is true that the Board must first "consult" with the Law Society, but the concurrence of the latter body is by no means essential.

Having got so far, will the incursion halt or will the Board of Education take over the Intermediate and Final Examinations as well? Perhaps the Board will in time have surprise inspections of offices where articled clerks are engaged, after the manner of surprise inspections of elementary schools.

Having begun with solicitors, will the Board be satisfied until it has assumed the leadership of the Council of Legal Education and instituted an examination (in "general knowledge," of course) for candidates for the Bench itself?

One might follow the matter to its logical end, but with one's mind refreshed on the subject of Contempt of Court by Mr. Bell's paper, something must be left to the imagination.

Seriously, it seems that our leaders blundered when they agreed to the intrusion of a Government Department into a purely professional domain.

J. L. M. Benest.

Maxwell House,
11, Arundel Street, Strand,
London, W.C.2,
Oct. 4th.

New Orders, &c.

Service at Westminster Abbey.

THURSDAY, 12TH OCTOBER, 1922.

On the occasion of the re-opening of the Law Courts, a Special Service will be held at Westminster Abbey, at 11.45 a.m., which the Lord Chancellor and His Majesty's Judges will attend.

In order to ascertain what space will be required, Members of the Junior Bar wishing to be present are requested to send their names to the Secretary of the General Council of the Bar, 5 Stone Buildings, Lincoln's Inn, W.C., before 4 p.m. on Wednesday, the 11th October.

Barristers attending the Service must wear robes. All should be at the Jerusalem Chamber, Westminster Abbey (Dean's Yard Entrance), where robing accommodation will be provided, not later than 11.30 a.m.

A limited number of seats in the South Transept will be reserved for friends of Members of the Bar, to whom two tickets of admission will be issued on application to the Secretary of the General Council of the Bar.

No tickets are required for admission to the North Transept, which is open to the public.

ERNEST M. POLLOCK,
Attorney General.

Westminster Cathedral.

A Votive Mass of the Holy Ghost (The "Red Mass") will be said on the occasion of the Re-opening of the Royal Courts of Justice, on Thursday, the 12th of October, 1922, at 11.30 a.m A robing room will be at Counsel's disposal at the Cathedral.

Treasury Orders.

ORDER UNDER SECTION 2 OF THE PUBLIC OFFICES FEES ACT, 1879.

In pursuance of the powers conferred on us by Section 2 of the Public Offices Fees Act, 1879, We, being Two of the Lords Commissioners of His Majesty's Treasury, hereby give notice, order and direct as follows:—

The fees for the time being payable under rules or regulations made under Section 22 (1) of the Railways Act, 1921, in respect of proceedings before the Railway Rates Tribunal shall be payable by means of adhesive stamps, which shall be of such design and character as the Commissioners of Inland Revenue may from time to time adopt for the purpose.

RATES OF INTEREST ON LOCAL LOANS.

The *Gazette* of 3rd October contains a Notice that in lieu of the rates of interest on loans advanced from the Local Loans Fund fixed by the Treasury Minute of 1st April, 1922, the rates specified in the Notice shall be charged, subject to the exception therein mentioned.

Board of Trade Order.

TREATY OF VERSAILLES.

RESTITUTION UNDER ARTICLE 238.

Notice is hereby given by the Board of Trade that no claims against Germany for restitution under the provisions of Article 238 of the Treaty of Versailles of cash, securities or other property seized or sequestrated in occupied territory will be entertained by their Reparation Claims Department except in cases which have been notified to the Reparation Claims Department, Cornwall House, Stamford Street, London, S.E.1, and full particulars of which have been furnished prior to 28th October, 1922.

All claims for restitution which have been notified to the Reparation Claims Department, but in respect of which all the particulars and information which have been asked for by the Reparation Claims Department have not been furnished prior to 28th October, 1922, will be presumed to have been abandoned. [*Gazette*, 29th September.

Ministry of Health Orders.

LONDON COUNTY Authorities: Officers and Offices.

THE HEALTH VISITORS (LONDON) RESCISSION ORDER, 1922.

Whereas by the Health Visitors (London) Order, 1909 [S.R. & O., 1909, No. 982], the Local Government Board made Regulations with respect to the qualification, mode of appointment, duties, salary and tenure of office of Health Visitors appointed in pursuance of Section 6 of the London County Council (General Powers) Act, 1908 [8 Edw. 7, c. cvii];

And whereas it is expedient that the said Order should be rescinded;

Now, therefore, the Minister of Health, in pursuance of his powers in that behalf, hereby Orders as follows:—

1. This Order may be cited as "The Health Visitors (London) Rescission Order, 1922."

2. The Health Visitors (London) Order, 1909, shall, as from the 1st day of January, 1923, be rescinded, without prejudice to any right or liability acquired or incurred under that Order.

H. O. STUTCHBURY,
16th September. *Assistant Secretary, Ministry of Health.*

TOWN PLANNING, ENGLAND.

(STATUTORY RULES AND ORDERS, 1922, No. 927.)

THE TOWN PLANNING (GENERAL INTERIM DEVELOPMENT) ORDER, 1922.

1. This Order may be cited as the Town Planning (General Interim Development) Order, 1922.

2. In this Order the following expressions have the meanings hereby assigned to them respectively:—

"The Minister" means the Minister of Health;

"Area" means any area in respect of which a resolution deciding to prepare a Town Planning Scheme has been duly passed and (where necessary) approved by the Minister under Section 42 of the Housing, Town Planning, &c., Act, 1919, or for which authority to prepare a Scheme has been given under Section 54 of the Housing, Town Planning, &c., Act, 1909 [9 Edw. 7, c. 44].

"The Local Authority" means the Local Authority who have decided or been authorised to prepare a Scheme for the area concerned.

3. For the purpose of Section 45 of the Housing, Town Planning, &c., Act, 1919, the Local Authority may permit the development of estates and building operations to proceed in the Area pending the preparation and approval of a Town Planning Scheme, subject to the conditions contained in this Order.

4. A person who desires to apply for permission under the last preceding Article, shall apply to the Local Authority for permission in writing and shall furnish to the Local Authority, together with his application and in the form required by them, a plan in duplicate showing the proposed method of development and proposed buildings and such further particulars as the Local Authority may require.

5 and 6. [Building operations, inconsistent with any Local Acts, not to be permitted.]

7. The Local Authority shall, as soon as may be, inform the applicant in writing that his application for permission to proceed is granted or refused, as the case may be, and, if the application is granted, shall state in writing the terms of any requirements which they may impose.

8. Any applicant aggrieved by the neglect or refusal of the Local Authority to grant permission, or by any requirements imposed by the Local Authority, may appeal to the Minister, whose decision shall be final, and shall have effect as if it were the decision of the Local Authority.

9. Subject and without prejudice to the power of the Minister to revoke or vary this Order, the Order shall remain in force in an Area or part of an Area until the date of the approval by the Minister of a Preliminary Statement for that Area or part under the Ministry of Health (Town Planning) Regulations, 1921 [S. R. & O., 1921, No. 373], or, where a Preliminary Statement is not required to be prepared, the date of the approval by the Minister of a Scheme for that Area or part.

12th August.

HOUSING, ENGLAND.

THE MINISTRY OF HEALTH (TEMPORARY RELAXATION OF BUILDING BYE-LAWS) REGULATIONS, 1922.

The Minister of Health, in pursuance of the powers conferred on him by sub-section (1) of Section 25 of the Housing, Town Planning, &c. Act, 1919, as extended by the Expiring Laws Act, 1922, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

1. These Regulations may be cited as the Ministry of Health (Temporary Relaxation of Building Bye-Laws) Regulations, 1922.

2. A Local Authority, notwithstanding the provisions of any building bye-laws* may, during the period for which Section 25 of the Housing, Town Planning, &c., Act, 1919, as extended by the Expiring Laws Act, 1922,† and by any subsequent enactments may be in operation, consent to the erection and use for human habitation of any building erected or proposed to be erected, which complies with the conditions set out in the Schedule hereto.

3. The deposit to be received from a person appealing to the Minister of Health against the neglect or refusal of a Local Authority to give such consent as aforesaid, or against the conditions on which such consent is given, or against the decision of the Local Authority as to the period for which the building may be allowed to be used for human habitation, shall be the sum of ten pounds: provided that the Minister of Health may in any case, if he thinks fit, require a deposit of less than ten pounds or may dispense with a deposit.

4. The Interpretation Act, 1889 [52 & 53 Vict. c. 63] applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

[The Schedule contains conditions identical with those in the Regulations of 1920 which expired on 31st July last].

E. R. FORBES,
16th September. *Assistant Secretary, Ministry of Health.*

* Section 40 of the Housing, Town Planning, &c. Act, 1919, enacts that, for the purposes of Part I of the Act, the expression "Building bye-laws" includes bye-laws made by any local authority under section one hundred and fifty-seven of the Public Health Act, 1875, as amended by any subsequent enactment, with respect to new buildings including the drainage thereof and new streets, and any enactments in any local Acts dealing with the construction and drainage of new buildings and the laying out and construction of new streets, and any bye-laws made with respect to such matters under any such local Act.

† The Expiring Laws Act, 1922, extends the operation of this section to the 31st December, 1923.

Societies.

University College, London,

In connection with the opening of the Faculty of Laws, Professor A. F. Murison gave a public introductory lecture on "Early Roman Legal Developments" at University College on Tuesday, 3rd October, at 6 p.m., and Dr. W. Nembhard Hibbert a public introductory lecture on "Some Recent Aspects of Private International Law," at King's College.

The Rhodes public lectures arranged for the first term of the session will be delivered at University College as follows:—

Monday, 23rd October, and Monday, 30th October, at 5.30 p.m., "A Ministry of Justice," by Lord Haldane. Chairman: Lord Chelmsford.

Monday, 13th November, at 5.30 p.m., "Martial Law," by Lord Sumner. Chairman: Colonel Earle, C.B., C.M.G., D.S.O.

Incorporated Accountants.

A Conference of Incorporated Accountants will be held in London on 25th, 26th and 27th October next. The proceedings will be opened in the Council Chamber of the Guildhall, on Thursday, 26th October, when an address will be delivered by the President, Sir James Martin. This address will be followed by a paper by the Vice-President, Mr. George Stanhope Pitt, on "Accountancy as the First Aid to Commercial Recovery." The Society of Incorporated Accountants and Auditors have issued invitations to a Dinner to be held at the Mansion House on the 26th inst., by kind permission of the Lord Mayor, who will be present together with the Sheriffs. A number of other social functions have been arranged, and the proceedings will conclude on the evening of the 27th with a Reception to the Country Members and Ladies by the President and Lady Martin, on behalf of the London Members of the Society, at the Carpenters Hall, London Wall.

The Development of Legal Education.

The following is the paper on this subject which was read at the Leeds Meeting by Mr. W. B. Gordon (Bradford):—

The time seems appropriate for consideration of this question. The War arrested the progressive extension of the organisations for legal education of Articled Clerks. It provided pre-occupation of mind which stayed the growth of feeling in favour of such objects as the higher educational equip- of Solicitors. There are signs that the forces thus pent up have gathered weight, so that the *vis inertia* which had to be faced even before the War is beginning to break down. Meantime, workers in the cause of legal education have grown older and some have passed away. There is need of recruits from among the younger men. The further success of the movement demands the services of such recruits. Their fresh insight and full vitality is urgently needed as supplement of the ripe experience and judgment of those who have worked hitherto. It should, therefore, be useful now to review the fundamental elements on which the existing systems were based and to consider how those systems may be developed and made more effectual for the purpose for which they were instituted.

The prescribed method of qualifying for the Solicitor's Branch of the Legal Profession still is that of apprenticeship. The aspirant must bind himself for a term of years to serve in the office of a practising Solicitor, who must undertake to instruct his apprentice in law and practice. This method is a survival from times in which it no doubt sufficed—when it was a possible method and when the results obtained were adequate to the needs. But changes which came about in the legal system, and social and commercial developments which added to the responsibilities of Solicitors, led a public-spirited Law Society to impose on the Articled Clerk educational tests which it was difficult, if not impossible, for him to pass with no preparation other than the practical experience he gained during his Articles and the instruction his principal could give him. At the same time, no provision was made to supply the need of higher instruction. The Law Society was not then a teaching body. Its duties were to lay down the conditions of qualification, and to see that candidates fulfilled those conditions. Law Schools were few in number and the curriculum of those which existed in the Universities and Colleges was not designed with the object of meeting the requirements of the Law Society examinations. In each generation of Articled Clerks there were some who protested against the entire absence of provision for their education, and from time to time practising Solicitors joined in the protest. Accordingly, Boards or Committees, voluntarily created for the purpose, from time to time established Schools of Law in different parts of the country, in which the curriculum of teaching was directed towards the requirements of the Law Society and was so arranged as to run concurrently with office work over a period of at least one session prior to the Law Society's Intermediate Examination and two sessions prior to the Final. All these schools were established and maintained by voluntary effort, in some cases unaided in the first instance, but later on assisted by annual grants from the Law Society. The making of these grants was the first step taken by the Law Society towards the assumption of responsibility for teaching. They, however, a short time after commencing the system of grants, themselves instituted a Law School in Chancery Lane, which they manage and control, which provides a similar curriculum to that of the Provincial Schools and the expenses of which are paid out of the Society's corporate funds. As result, there now exist, in London and several provincial centres, Schools of Law aided (in the case of London maintained) by the Law Society and recognised by that body as providing suitable legal education for Articled Clerks.

The establishment of this system and the Law Society's active support and promotion of it testify the official view that the apprenticeship method by itself is inadequate—that the Principal can no longer be expected to give the Articled Clerk all the instruction required in order to make him an efficient Solicitor—and that what is needed is organised teaching of law by skilled teachers concurrently with and throughout the greater part of the period of apprenticeship.

The question I want to consider is how far the education already provided reaches, or fails to reach, the Articled Clerks of the country, and how it is to be made to reach them, or they are to be brought within its influence, so far as it falls short.

In considering this question we, at the outset, must admit and face the fact that only a minority of the Articled Clerks throughout the country avail themselves of the education so far provided. The majority, who at present are outside the system, may be divided into two classes—First: Those to whom that system is available but who do not take advantage of it; and Second: Those who during Articles are not within reach of any now existing School of Law. As regards the first class, there are undoubtedly a number who could with ease attend one or other School of Law if they chose to do so. The first and main reason why they do not so choose, lies in the student's ignorance—either entire ignorance of the existence and purpose of the School of Law, or ignorance, or want of appreciation, of the advantages to be derived from attendance at it. Some, if not all of the Committees or Boards of Legal Education do what they can to keep Articled Clerks informed on these questions. But this is not enough. Circulars from voluntary bodies have a way of getting mislaid before they are fully digested. Moreover, the local Committee or Board, being an entirely voluntary body, is regarded by many as composed only of a few enthusiasts who advocate, as a fad of their own, a course which it is not essential to follow. An ounce of official pressure would weigh more than a pound of voluntary influence. The Law Society is the Governing Body of the Profession, entrusted with the duty of admitting new members to it. They have made the established system of education their own, and it is they who can most effectually influence Articled Clerks to adopt it. If it is desired to exercise such influence, ways of doing so will present themselves from time to time. I suggest a few which readily occur to the mind on a first consideration of the question. They are these:—

(A) A boy generally chooses his profession before he leaves school, and he or his parents generally consult his headmaster as to the course he should pursue. It would be well, therefore, that each headmaster should have in his pigeon-hole for reference a concise statement setting out the legal requirements for qualification as a Solicitor, and the views of the Society as to the desirability of systematic education during Articles, and giving a list of the various Schools of Law with the name and address of the Secretary, of the Board or Committee associated in each case with the school.

(B) A system should also be instituted under which, in acknowledging receipt of Articles for registration, the Society would advise the Clerk and his Principal in favour of adoption of a course of systematic teaching, intimate to both of them the title and address of the local Committee charged with the care of legal education in the district, and suggest that the Clerk should ask the Secretary of that Board or Committee for information regarding the courses of education available to him. If at the same time the Society were to send to the Secretary in question an intimation of the name and address of the Clerk and his Principal, the Secretary could make to both an approach which would command more attention on account of the official sanction preceding it.

(C) In some cases the area of the local Committee is a large one, and within it are several Provincial Law Societies and Law Students' Societies whose influence might be most useful if they were invited from headquarters to interest themselves in the subject.

(D) The Society's Annual Report contains paragraphs regarding the Law School in Chancery Lane and their "Gazette" advertises that school, whilst both documents ignore the provincial schools. The impression thus conveyed is that the Chancery Lane School is the only one that matters so far as the Society is concerned. To avoid this impression, the Report should take note of the work of all Schools of Law and the "Gazette" should admit some information regarding them.

(E) Consideration should be given to the grave obstacle created by the view held in many cases by the Principal that he is entitled to the services of his Articled Clerk and cannot allow him time to attend classes. Such a view is enforced by the Principal unconsciously or without thought as often as of express intention. This phase should be drastically dealt with. All the weight of the Law Society's influence should be brought to bear to make it understood by the Profession that the purpose of the Clerk's service is not the provision of cheap labour for the Principal, but the qualification of the Clerk for the practice of the Profession, and that every Principal is bound at least to give to his Clerk the opportunity of getting that higher instruction or education which no Principal can himself impart. This would be best done by the Law Society insisting that all Articles of Clerkship shall include a clause requiring the Principal to allow the Clerk facilities for attendance at an approved course of study for at least one year before the Intermediate Examination and two years before the Final.

As to the second class of outsiders—namely, those who during Articles are not within reach of any now existing School of Law—I suggest that with regard to them also responsibility lies on the Law Society. In my young and venturesome days I had the temerity to address a general meeting in Chancery Lane on the subject of Legal Education and to express a visionary view of a vista of centres of legal education within reach of most of the Articled Clerks of the country. My utterance caused violent shakings of the head on the part of the then Secretary, Mr. Williamson, and the whole platform of members of Council groaned a negative. It was those groans that determined me to concentrate such efforts as I was capable of on assisting a movement instituted by Solicitors of Yorkshire, the success of which would shew that my vision was possible of realisation. Now, not only Yorkshire, but several other districts have demonstrated the feasibility of the suggestion. Now that the necessity and feasibility are both proved, it remains for the Law Society to devise a scheme for provision of a School of Law in every available centre and to seek the co-operation of the local Solicitors in carrying that scheme into effect. For this purpose, a Committee should be formed charged with the duty of mapping out the whole country, shewing the districts which the existing schools may fairly be said to serve, and indicating where additional schools might be established and the districts which should be allotted to them. When such a scheme has been mapped out, it will then be for the Council to determine what assistance they can give to each centre and to induce each locality to make the necessary effort for establishment of its local school. The main difficulty would be a financial one. Provincial Solicitors have shewn their willingness to help in overcoming that difficulty so far as their districts are concerned. If London Solicitors would follow suit and help to finance what should be their Law School in Chancery Lane, this would increase the funds out of which the Law Society could subsidize a greater amount of local effort, and would at the same time add weight to the Society's influence in asking each locality to bear some of the financial burden of its school. All schools, including London, should be on equal footing, receiving a subsidy from the Society only on condition of self-help.

But there must in the nature of things be a limit to the number of centres established. The teaching must be efficient, and there must be a sufficient number of students at each centre to bring the cost per student down to a reasonable figure. Each centre must be made to serve a considerable district, and Articled Clerks in outlying parts of the district must be willing to suffer some inconvenience of travel. At the Leeds School, out of forty students, twenty-two come from surrounding towns, some travelling railway journeys as much as three-quarters of an hour.

Even then, however, there must—especially in the more thinly populated areas—be a considerable number of Articled Clerks throughout the country whom it is impossible to reach. What is to be done in regard to them? The answer to this question must depend on our view of the necessity or degree of value of organised legal education.

I take the official policy to be represented by the action of the Society in imposing increasingly stringent educational tests as a necessary qualification for the Profession, establishing or subsidizing Schools of Law to provide education for the passing of those tests, and even obtaining powers to require Articled Clerks to undergo a minimum period of study at an approved Law School. This being the official policy, the Society cannot say to the Articled Clerk in a populated area: "You ought to be educated," and to another in a country district: "You need not be educated." But if nothing more is done, we have reached the point at which—having by the examinations raised very greatly the required standard of legal education, and having provided for a proportion of Articled Clerks adequate means of reaching that standard—we shall have left the remainder of the Articled Clerks to get their education as best they can.

Now, if we regard only the interest of the individual, it may be right to leave that individual entire freedom to say whether or not he will place himself in a position in which he cannot avail himself of the educational advantages open to his fellow Articled Clerk in the more populated area. But the demand for organised legal education, and such provision as has so far been made in answer to that demand, have been inspired by consideration, largely of public and professional interest. The Solicitor is a public servant, admitted to the service in consideration of his attaining a standard of qualification, and his usefulness depends largely on his educational equipment. He is also a member of a learned Profession, anxious to retain and improve the status of that Profession and taking pride in its capacity of service. From these points of view the educational qualifications necessary or desirable for one Articled Clerk are similarly necessary or desirable for all. So long, however, as aspirants to the Profession are permitted to enter on Articles in offices situate beyond possible reach of a Law School, there must constantly be a number admitted to practice who either have muddled through their examinations without any systematic training, or have had teaching directed only to the passing of the examinations and in no way designed to "lay a broad foundation of intelligent knowledge of law and practice." The only way to avoid this admission of insufficiently educated men to the Profession is to induce all who desire to enter to serve their Articles in a district in which an approved Law School will be accessible to them. How this is to be done effectually is a question full of difficulty. Much could be done by methods of influence, such as I have suggested, for the purpose of inducing Articled Clerks to attend a Law School. The opinion of the Law Society clearly, strongly and constantly expressed, would go a long way. Much could also be done in the examination room to find out whether the candidate's learning is real and well-grounded, or whether it is based on sound knowledge of legal principle.

A suggestion which would limit the freedom of the Articled Clerk in selecting his location of Articles, and would deprive the Solicitor of the services and premium of the Clerk, will probably cause some censure. But I would again urge that the principle should be insisted on that the Articled Clerk enters the office of a Solicitor for his educational benefit, and that all other considerations should give way to that benefit. The conscientious performance of work entrusted to him in the office is essential to the Clerk's own education, and is a duty he owes to the Principal who entrusts him with the work. But where the undertaking of work and the attendance at classes conflict, the governing factor is not the convenience of the Principal, but the efficient education of the Clerk. Neither the Solicitor, in being deprived of the opportunity of accepting an Articled Clerk, nor the Clerk, in finding it necessary to serve his Articles in some place other than the one he would prefer, would be in a worse position than the medical practitioner or the medical student of the present day. At one time doctors were trained by a system of apprenticeship and the medical aspirant might be apprenticed where he liked. Practitioners received premiums for apprentices, and even in many cases made a profit by boarding and lodging the apprentice. The medical profession, when convinced of the necessity of systematised education, boldly scrapped apprenticeship without regard to the apprentice's freedom or to the practitioner's emoluments. They at the same time concentrated Schools of Medicine in each case around a hospital in which the medical student could learn the equivalent of what the Law Student learns in the office. We have no such resource. We are tied, therefore, to the apprenticeship system; but that system should, regardless of individual interest, be so conditioned as to make it possible for the Articled Clerk to obtain the essential teaching of the Principles of Law.

To sum up, my proposition is that, in order to attain a sufficient development of the system of legal education of which the foundations have been laid, and in order to ensure that all Articled Clerks shall be educated according to that system, it is necessary that the Law Society should exert all its powers and influence in the following directions—

1. To induce Articled Clerks and their Principals to adopt that system where it is working within reach.
2. To incite and assist the establishment of more Law Schools.
3. To prevent entry into Articles in a district which is not reasonably accessible to a Law School.

I believe that, if the Law Society set itself determinedly to the task, all these objects could be attained without legislative powers of compulsion. Compulsion is impossible until the force of public opinion gives it sanction. The present aim is to strengthen public opinion and, if this is done adequately, there will be no need for compulsion. Moreover, better results are in general obtained by leading than by compelling.

The spread of a spirit of desire for education—the creation of a strong professional feeling that public and professional interests require the Solicitor of the future to be efficiently trained—will bring about in a short time results which must be postponed for a generation or more if we are to seek to effect them by compulsion. Local feeling, local initiative, local effort have paved the way and demonstrated the possibilities. These are forces which can and must still work, but the time has come when they should be recognised as being part of a national organisation to be developed on national lines.

It is on the initiative of the Law Society as the Governing Body of the Profession that the necessary spirit throughout the country can best be fostered. For that Society to regard the Law School in Chancery Lane as the fulfilment of a national purpose and the provincial schools as well—provincial—is to take a parochial view. The teaching of all the Articled Clerks of the country cannot be concentrated in London and the London Articled Clerks are entitled to no more from the Law Society than are those in the provinces. The establishment of a great London Law School, which shall be the centre of legal illumination for the Empire, may be a wonderful idea, but it would not serve the requirements of the Solicitors' Articled Clerks. The first concern of the Law Society is the efficiency of their branch of the legal profession throughout England, and until this is assured there can be no energy or cash to spare for higher flights. To assure it we must regard the question from a national rather than a metropolitan and provincial standpoint. We must consider the educational needs of all Articled Clerks, equally throughout the country—make it our business to see that those needs are met; seek the support of all Solicitors without distinction; and lose no opportunity, but search for and use opportunity, of shewing that all Articled Clerks are expected to adopt the scheme of education established for their benefit. By such means it is possible that we may enable our successors to retain and increase public confidence in the Profession to which we are proud to belong.

There is now, says *The Times* under "City Notes" (3rd October), general recognition of the fact that banks cannot be expected to treat "Received for Shipment" bills of lading recording the receipt of the goods by the shipowners on the same footing as "Shipped" bills of lading stating that the goods have actually been shipped in a particular vessel. When "Received for Shipment" bills are issued delays may occur between the receipt of the goods by the shipping companies and the actual shipment, which may affect the question of advances for the financing of the shipment. But some of those who have held that, at any rate from certain points of view, the "Received for Shipment" bills may be less desirable than "Shipped" bills, recognize that on occasions they may be very useful documents.

Departmental Administration.

The following paper on this subject was read at the Leeds Meeting by Mr. WILLIAM BOND COCKS, LL.B. (Nuneaton).

The subject of Departmental Administration is so complex and its ramifications are so many, extending as they do through so many departments and sub-departments of State, that it is only possible, if one is to keep within the scope of a paper such as this, to deal with one or two aspects of it, and I do not propose to address myself mainly to its legal aspects. It is, however, a subject which is not only very prominent at the moment, but of extreme importance, and I venture to think that there is good reason for bringing it before this Meeting for consideration and discussion.

The prominence of the subject at the present time is due, of course, directly to the war.

One of the necessary accompaniments of war, intensified to a degree previously unknown, has fallen upon the country in the shape of a huge increase in the National Debt. National expenditure has reached a figure which can only be described as colossal, and under the burden of the consequent taxation the country is groaning. The following figures speak for themselves. The total amount of the Consolidated Fund Services in 1913-14 was thirty-seven millions. In 1922-23 the Budget Estimate for these services was 373 millions. Practically the whole of that increase is due to the increase in the National Debt. For the same years the Supply Services shew an increase from 170 millions to 610 millions. In other words, the Budget Estimates for the current year were four and a half times the gross expenditure for 1913-14. Then we have the Chancellor of the Exchequer's statement that the British nation is taxed at £17 per head, as against £9 per head in France, and that taxation here is at least twice as much as in the United States.

Apart from this side of the picture the war has also, as all previous wars have done, revealed defects of administration, which are described in terms varying with the temperament of the writer!

The main object of this Paper is, by marshalling a few facts and figures, to emphasize the growth in the cost of the public services, and the necessity for supervision and control, and to indicate the limits of usefulness of Government Departments which experience seems to teach.

Everyone who has attempted to investigate the figures of National Expenditure will, I think, agree that it is not easy always to obtain figures which are strictly comparative, and one recognises that the conditions brought about by the war were so abnormal that it is very easy to be misled by figures into making deductions which are unsound and unfair to the departments.

In quoting the figures which appear in this Paper, I do so with a due recognition of the abnormal conditions which have prevailed in recent years, and I hope that I have not attached undue importance to them.

It will, I think, be convenient to divide the subject under two main heads —(1) The Administration of the Public Services, and (2) The Public Services themselves.

I.—THE ADMINISTRATION OF THE PUBLIC SERVICES.

1. As regards the first of these heads, the Administration of the Public Services is, for all practical purposes, in the hands of the Civil Service under, of course, the responsible Minister of each department.

The Civil Service, as we know it to-day, is of comparatively recent origin, and dates back to 1855 when, by Order in Council, the first Civil Service Commission was established. Its development since that date, as shewn by the Reports of the various Commissions which have been appointed to enquire into it, has been in the main the story of its gradual emancipation from recruitment by patronage to recruitment by open competitive examination. That is a general statement, as there are many appointments, high and low, which are still the subject of patronage. No one, I suppose, would deny that the changes which have taken place have resulted in a great improvement in the efficiency of the service since those early days, when, for example, we read that the office of the Deputy Registrar-General was abolished, as he had not attended the office for fifteen months, which seemed to indicate that his presence was unnecessary!

It so happens that a Report of a Royal Commission on the Civil Service was published in 1914, as the outcome of an enquiry extending over two years. The Commissioners called attention to the growing importance of the Civil Service. The large number of Acts passed in recent years dealing with social and industrial problems had added enormously to the burden of administration, and imposed on Departments obligations of a serious nature which in the words of the Commissioners "occasionally go far towards obliterating the distinction hitherto maintained between legislative, executive, and judicial functions." There are some who think that we should be none the worse if there were less of this kind of obliteration! The Commissioners expressed the view, as a general conclusion, that the fundamental principles upon which the Civil Service is based appeared to them to be sound, and that in the main its organization was efficient. They further added that the action which, over a series of years, had been taken to improve the Civil Service had in their judgment resulted in the creation of a competent, zealous and upright body of public officers.

All who are here to-day are, no doubt, personally acquainted with men in the Civil Service. Their integrity as a body and their loyalty to the Service are unquestioned. The high traditions of the Service are an immense asset to the nation. Judged by the intellectual standard they compare very favourably with men in other callings. Entrance to the higher positions requires a liberal education. Notwithstanding, it is doubtful whether the conclusion of the Commissioners would be the same to-day. Since that conclusion was reached there has been a stern test, and the average citizen is not satisfied.

Of the defects which have revealed themselves I will mention three.

(1) There is an insufficient sense of the need for economy. By this I do not mean merely a sense of the need for cutting down expenditure in view of the effect of the war on national resources, but the recognition, at all times, that the expenditure of a Department has to be borne by the taxpayer and that expenditure should not be incurred, unless it is clear that it will result in real benefit to the community. If that sense could be developed it would, of itself, tend to check growth of expenditure, but at the present time there is urgent need for that kind of economy—if it can be called economy—which can perhaps best be expressed by the well-worn phrase of "cutting one's garment according to one's cloth."

Amongst the many miscalculations made in connection with the war there was the one of imagining that a nation, burdened with debt, would be able to afford all kinds of expensive schemes of development. The word reconstruction was to be heard on every hand, and a special Ministry was constituted to organize the work of reconstruction after the war. There is no doubt that many Departments looked forward to a period of expansion, and greater activity. The war had given them undreamt of powers of control and influence in the nation's affairs, and they were satisfied it was for the nation's good that they should continue to wield those powers, as far as possible, in the days of peace. That state of mind, I think is the explanation of the increased activities of various Departments which the Committee on National Expenditure—popularly known as the Geddes Committee—comment upon. In this connection may I quote a passage from one of the Reports of the Ministry of Reconstruction? It says: "The course of development prior to the War, greatly accelerated and extended by the experience of the War, may possibly lead to the recognition of the promotion of increased material production *in private enterprise*" (the *italics* are mine) "as a permanent function of government, and to its concentration (subject always to the question whether there should be one such Ministry *or a group of such Ministries*" (the *italics* are again mine) "in the Ministry primarily concerned with Commerce and Industry." That passage, I think, indicates the direction in which departmental thought was moving.

This failure on the part of Departments to realise the straitened condition of the country, and to adapt their expenditure accordingly, can best be shewn perhaps by a few illustrations.

The Geddes Committee in dealing with the fighting services record the marked impression made upon them by the fact that, with a broken and exhausted Europe, and with no German menace, the country was to have far greater fighting power, and greater preparations for war were provided for in the Estimates for the current year, than ever before in the country's history, and this notwithstanding an instruction of the Government in 1919 that the Estimates for the three fighting services were to be built up on the assumption that no great war was to be anticipated within the next ten years.

The Shore establishments of the Navy shewed an increase of 23 per cent. in officers and men.

Similarly in the Coast Guard Service there was found to be an increase of 68 per cent. in the number of officers.

The Committee found evidence of wasteful employment of Metropolitan Police at the Dockyards and after they had interviewed the Admiralty representatives it was found possible to dispense with two chief inspectors, one inspector, three sergeants, and fifty-six police constables at Chatham alone.

Turning to the War Office it was found possible, after representatives had been interviewed by the Committee, to reduce the cost of the Army Pay Corps by over 37 per cent. and the Corps of Military Accountants by nearly 25 per cent. These two decreases alone meant a saving of nearly half a million.

When one comes to the Staffs one finds that the Staff at the Admiralty has increased from 2,072 before the war to 4,500 and the Committee record their conviction that the large Staff at the Admiralty tends to create high cost and big establishments elsewhere.

The War Office Staff shews an increase from 1,878 to 4,114, and after deducting 560 engaged on work in connection with the issue of medals, there is an increase of 1,676. One of the principal reasons given for this increase was that there had been a large increase of domestic military correspondence.

It was found that there was an increase of clerical staff in all commands, and the Committee suggested that the way to stop correspondence was to reduce the staff which creates it. After an interview with War Office representatives the latter indicated that a reduction in the Estimates for one Branch alone of £196,000 was possible, equivalent to over 37 per cent. of the cost of that Branch.

The Committee record that they were greatly impressed with the great extension of activity upon the part of the Army, and that there was great room for economy in men and money. There was an increase in officers which flowed right through from the Infantry Regiments to the highest command staffs.

The Labour Ministry were proposing to increase the Permanent Staff from 6,241 in August 1921 to 9,283 in April 1922. As the Committee point out, one would hardly have thought that a period of exceptional unemployment was an appropriate time for settling the permanent establishment.

Great activity was found in various Departments under the head of Education and Research.

In the Navy Estimates, the amount for scientific services had increased from £53,000 in 1913-14 to £400,000 for the current year.

The Army Estimates under the head of Inspection and Research shewed an increase from £263,000 to £1,245,000.

The Ministry of Agriculture and Fisheries shewed an increase under the head of Education and Research from £128,000 to £530,000.

The Board of Trade still considered a staff of 2,000 was required for temporary services arising out of the war. They were also proposing to take a Census of production in 1923 in respect of the year 1922 at a cost of £120,000, a proposal which was abandoned the previous year in view of the need for economy. One wonders what particular value in any case such a Census would have, when trade conditions are so abnormal.

The Admiralty, War Office and Ministry of Pensions together have Hospitals which provide accommodation for 26,000 beds, but apparently there is no co-ordination, and nearly 10,000 of these were found to be unoccupied.

I give these as a few haphazard illustrations of the lack of appreciation of the burden of taxation which the country has to bear, and of the primary need of lightening the load to the utmost limit.

The Geddes Committee worked under great pressure, and no doubt made mistakes, but when Departments themselves are able, after their attention has been called to expenditure, to indicate where reductions can be made, one feels that they are not alive to the urgent necessity of effecting every possible economy at the present time, and that if those who have inside knowledge of the work of the various Departments would really devote themselves to this object, a saving in many directions could be effected.

It is little wonder that Commissions and Committees have felt that Departments are not to be trusted, and have made various suggestions for strengthening Parliamentary and Treasury control.

(2) There is need for a change in the attitude of Departments towards the public.

Too often one is given the impression that the community exists for a Department and not a Department for the community.

There is, too frequently, a failure to appreciate the point of view of members of the community, and in consequence difficulties are created, delays occur, and the subject does not receive the service to which he is entitled, and in some cases is quite unfairly treated. Judging from personal experience, I should think the Foreign Office is a great offender in this respect.

The Ministry of Pensions has also exhibited this trait in a marked degree. With so many cases to deal with, and with the need for caution in regard to some claims, one recognises that mistakes are practically inevitable; but the way the claims of some men have been resisted, after it was perfectly obvious to any fair-minded person that the claim should be allowed—and the Ministry themselves have admitted it in the end—shews a lack of appreciation of the point of view of those with whom they have to deal, and is contrary to what one is entitled to expect from a Government Department. This is further exemplified by the dilatoriness of the Department in dealing with claims, a frequent cause of hardship. Instances could be multiplied. It is the spirit of bureaucracy at work.

There have been several instances of this spirit recently in other spheres.

In the case of *Matthey* v. *Curling*, which was before the House of Lords in March last, there came to light the action of the War Office in regard to a house which had been requisitioned for the internment of Prisoners of War, and, while in the occupation of the Crown, had been burnt down. The Department took up the position that, as enquiries made into the cause of the fire did not tend to shew that it was due to negligence on the part of anyone for whom the Military Authorities were responsible, nothing was to be paid, although the lessee was under covenant to deliver up in repair. Lord Buckmaster found it "difficult to understand on what ground or on what authority any government is at liberty, having dispossessed a man of his property, to refuse responsiblitiy for its restoration when their occupation ceased."

In the case of *Rex* v. *Governor of Brixton Prison* which was before a Divisional Court in April last, the facts shewed that the Home Secretary made an order for the deportation of a Russian under the Aliens Restriction Act, after the Judge at the trial had dismissed an application for deportation.

Then there is the case of *Attorney-General* v. *Wilts United Dairies* (1921) where the Court of Appeal having decided that a claim to enforce licence fees for milk purchased in certain areas, under Orders of the Food Controller, could not be legally sustained, the President of the Board of Trade, while the appeal was still pending in the House of Lords, is reported as having stated in the House of Commons that if the Lords should affirm the judgment of the Court of Appeal, a Bill would be forthwith introduced to legalise the claim.

It is full time that the jurisdiction of the Courts, which has been so curtailed in recent years by Acts and Orders and Regulations should, in matters between the Crown and the subject, be re-established.

(3) There is a need for the introduction of business methods to a larger extent than at present prevails in Departments.

The introduction of business methods into Government Departments is, I know, a subject which has been discussed on many occasions and on which different views are held.

The Royal Commission of 1914 said that the conditions under which public officials have to work make the complete adoption of business methods impossible. The reasons which they give can be summarized as follows:—

(A) That Public Administration is not run for profit and that some advantage to the community as a whole other than pecuniary profit is the object to which Departmental Administration is directed.

(B) That Departmental Procedure is dictated by the needs of Parliamentary Government, and that Ministers are subject to far more continuous and detailed criticism than are the directors of commercial enterprises, and this requires the use of elaborate records and a procedure which is usually slow in comparison with that of a business manager.

(C) That heads of Government Departments can never choose nor dismiss their men as freely as business managers, and that security of employment leading, after a prescribed term of years, to a pension is and must remain a condition of the employment of a large proportion of Government servants.

And in a lecture recently delivered at the London School of Economics, Sir Joseph Stamp said that at nearly every fundamental point the analogy between the administration of business and of a Government Department was found to be false, because methods were unconsciously influenced by motives. He also considered that the business man, in criticising the public services, usually overlooked all constitutional limitations.

No one, I imagine, would dispute that there are important differences between the administration of a business and of a Department, but after every allowance is made, there must be room for the introduction into Departments of methods which have been found successful in other spheres because they brought increased efficiency. A business has to maintain a standard in relation to other businesses; a Department is under no such continuous test.

It is true that careful records are essential in the public service, but it is not every matter which requires a detailed record to be kept. Commission after Commission has emphasized the fact that by far the greater part of the work of Departments is simple routine work. Knowing how slowly the Civil Service moves, one cannot but feel that there are many directions in which improved methods are possible, and that the introduction of these would lead to economy and at the same time would get rid of a great deal of delay which is such a feature of Departmental Administration. In this connection I may mention that recent enquiries shewed that hitherto practically no machines had been used in the Customs and Excise Department in the compilation of statistics, and tests are only now being made.

An illustration in another direction is to be found in the Report of the Geddes Committee dealing with the Post Office. In referring to the immobility of the Postal Staff it is pointed out that, while at Derby the existing permanent staff was admittedly greater than the present conditions would justify, yet they were carried as surplus, being permanent men, while at the same time temporary staff was being employed at Manchester.

Again, who doubts, if there were a thorough overhauling of returns, and forms, and statistical compilations in Government Offices, there would be found room for substantial economies?

Suggestions have been made from time to time for improving the administration of Departments. Usually these have taken the form of recommending that advisory bodies should be established or that Committees of one form or another should be appointed. It is difficult to estimate how far suggestions of this kind would prove of value in practice without actual experience of their working. One of the recognised weaknesses, however, in the Civil Service is the lack of responsibility, and the necessity for subordinate to refer to subordinate. I think that if greater responsibility were given to officers, this would result in a speeding up of the work, diminution of staff and greater efficiency generally. The obvious remedy, if the administrative work is not satisfactorily done, is, not to appoint somebody to see that it is done, but to remove those who, for whatever reason, prove themselves incapable of doing it, and to substitute men who are capable. I have no doubt that the capable men in the Service would welcome such a step, because they find themselves constantly hindered and harassed by the present system. I am confirmed in this view by a passage in one of the Geddes Reports that in the Customs and Excise Department steps had recently been taken to enlarge the powers of Collectors and Surveyors in certain matters, resulting in a reduction of correspondence and a saving of staff at headquarters.

Again, it is neither in the interests of the Service nor of the individual that a man should regard his position as secure so long as he performs the duties attaching to it "indifferently well." The Royal Commission of 1914 was not satisfied that the power of removing inefficient officers from the Service was so freely used as it might be.

II.—The Public Services.

The increase in the cost of the Public Services as compared with pre-war days is enormous. Omitting the fighting services and the revenue departments, the figures show an increase from 55 millions to 346 millions. Some of the increases are inevitable, but this very fact only adds to the urgency for strict economy in other directions.

One recognises, of course, that Parliament is in large measure responsible for the expenditure on the Public Services. It is, in the main, a matter of policy, and so long as legislation continues to be passed which throws an increased burden on the Departments, expenditure must increase. At the same time the Departments themselves must bear a considerable share of the responsibility. The recommendations of experienced officials must carry great weight, not only in actual administration, but also in policy, and the actual methods of administration are largely in their hands.

A few examples of increases under this head may prove of interest and perhaps indicate where economies might be effected.

The growth in the cost of education has been remarkable. For 1913-14 the expenditure was 19 millions, and since 1918-19 the amount has increased from 25 millions to 55 millions. These are the sums paid out of the Exchequer, and do not take into account the heavy contributions out of rates.

Everyone recognises the great value of education, and the undoubted improvement in both the methods and the result of public education in recent years, and one would be sorry to see its efficiency diminished. At the same time, one has the feeling that the educationists have rather run away with us, and one seriously questions whether, when judged by the product, the amount spent on education at the present time can be justified.

The Geddes Committee called particular attention to the system of percentage grants by which the expenditure of the State is controlled in large measure by the expenditure of local authorities, and they regard this system as an encouragement to the local authorities to indulge in expenditure which they would never have incurred if the bulk of it were not to be found by the National Exchequer.

I am not in a position to say how far the criticism of this Committee in this respect is justified, but one knows that in the eyes of local authorities expenditure out of rates and expenditure out of taxes are very different things, and it is significant that in Scotland the percentage system has been abolished and a system of block grants has been substituted.

Again, the Board of Trade has shewn considerable development since the war. After eliminating the War Services, the cost has increased from slightly over £500,000 in 1913-14 to just under £2,000,000 in 1922-23.

The old Commercial Department has branched out into four separate Departments:—

(A) The Department of Overseas Trade;
(B) Industries and Manufactures;
(C) Power, Transport and Economic; and
(D) Commercial Relations and Treaties.

A special Investigation Committee in 1920 reported that the three last mentioned Departments had developed their activities on the advisory side beyond what was necessary, and that their functions and work overlapped those of other Departments.

The Overseas Trade Department is substantially a new Department. It has a staff of over 400 at Headquarters and occupies offices costing over £120,000 a year. The Geddes Committee found, on enquiring into the nature of the work of the Department, that a good deal of it was absolutely outside the scope of ordinary Government business and ought not to be paid for by the taxpayer. They were satisfied that large firms through their own agents are quite able to handle their own business affairs, and so far as small firms are concerned they are usually members of associations which exist to fulfil similar functions.

Then there is the Mines Department with a staff of approximately 350, and an estimated cost of £175,000, which came into being during the war and was placed on a permanent basis, under a Parliamentary Secretary of the Board of Trade, by the Mining Industry Act, 1920. Since that date the circumstances in the Mining Industry have completely changed and there is no doubt there is considerable room for economy so far as this Department is concerned.

The Registration of Business Names Act requires a staff of forty-four. Fees are charged, and at one time the receipts exceeded the expenditure, but now the service is run at a loss. The Board of Trade say that on enquiry they ascertained that the business community desired the Act to be strictly enforced. I am surprised if this is so, and should certainly have thought that it was a question whether this registration could not now be dispensed with, without any injury to anyone.

The Ministry of Agriculture and Fisheries shews a very large increase, namely from £260,000 to slightly over £2,000,000. The administrative expenditure has increased from £260,000 to £650,000. It is true that a large part of these increases is accounted for by new services, but allowing for these there is a large increase.

The figures of the Forestry Commission are striking. Of the £200,000 which was asked for it was found that £92,000 would be available for cultural purposes and that the salaries and allowances of Headquarters Staff and various offices accounted for at least one-fifth of the whole sum.

I have always tried to keep on good terms with the police, and therefore I refrain from giving the actual comparative figures of their cost in 1913-14 and 1922-23, but the increase is very substantial! One can, however, congratulate them on having such friends in power that they were able to secure the same rate of remuneration for the constable in a rural district as for a member of the Metropolitan Police, and to get the Pensions Scheme passed without any actuarial estimate of the cost being first obtained.

I need not add to the list. It is obvious there is great need of more effective control in the present condition of the country.

How difficult it is to get rid of a Department once it has been established is exemplified by the Land Valuation Office, which is still maintained although no longer required for the purposes for which it was brought into being. And still the I.V.D. Forms are filed!

There is another side of departmental activity which has been prominent in recent years. I refer to their business experiences. To mention a few: motor-tractor ploughing, timber buying and selling, coal mines, national shipyards, railways, and more recently housing.

There are, of course, explanations for the losses which have fallen so heavily upon the taxpayer, but whenever Government Departments have made incursions into the territories of business and trade there is practically always the same story to tell.

Recently the Public Trustee Department has been attracting attention. Since 1917 the work of the Department proper has been conducted at a loss. The provisional estimate for 1922-23 shewed a deficit of £61,000, but it seems that the Public Trustee is confident that he can eliminate this deficit by a reduction of expenditure, provided there is a reasonable intake of new business. As a matter of fact the business shews a falling off of 40 per cent. in the last two years.

If there is a general desire for a Public Trustee the community is, of course, entitled to have one, but the Department should not be a charge on the public funds. It would be contrary to experience if the Department were able to maintain itself by fees in face of the competition it has to meet.

As a matter of fact the security which the Public Trustee affords, and which presumably is the outstanding advantage which the Department offers, could easily have been provided without creating a new Department. The experience of Bankruptcy Administration, to the cost of which, in comparison with private liquidation, attention has been so often called, does not encourage the hope that the Department will soon cease to be a charge on the public funds.

Experience impels one to the conclusion that service by a Government Department is always more expensive and generally less efficient than similar service performed by other means. Actual instances—for example, the Royal Dockyards—are easy to find. The moral is that, at any rate at the present time, the right policy is to curtail departmental activity in any form of service which can be rendered to the community in any other way.

There remains the question of how a reduction in National Expenditure can be effected.

The control of public expenditure has been a constant source of difficulty, and here, again, suggestions of various kinds have been made from time to time for securing more effective supervision and control. I do not think that I need discuss these suggestions, because all of them would involve increased staff and consequently increased expenditure.

The Treasury, of course, is the Department whose function it is to control expenditure. This control was very much weakened during the period of the war, and apparently has not yet been re-established on its pre-war footing. Then there are the Select Committee on Estimates and on Public Accounts which present their Reports to Parliament. One would think that these together should prove adequate to the task. A great weakness of the Report of the Select Committee on Estimates, however, is that it is presented after the votes have been granted. The result is that there is very little interest taken in the Committee's Report and when the Report was presented recently in the House the maximum attendance was fifteen. With a General Election approaching special committees have been appointed by the Cabinet to deal with the Estimates for next year, but

obviously in normal times the Estimates should be examined and a report presented to Parliament before the votes are granted. There is great need for a far more real control by Parliament over expenditure than has been exercised in recent years.

However strongly one may feel that Departments could reduce the cost of administration, one must recognise that a great part of the national expenditure at the present time is outside the effective control of the administrative machine. The Geddes Committee analyzed the figures for 1921-22, and found that out of a total of eleven hundred millions, real substantial economy could only be achieved as regards seven hundred millions if changes were decided upon in the policy already approved by Parliament. But, as I have already said, the fact that there are heavy charges, which it is practically impossible to reduce, makes it all the more imperative that Parliament and the Departments should use every effort to secure economies where reductions in expenditure are possible.

Our professional training should give us something of a judicial mind, and I acknowledge that on this subject of Departmental Administration there is much to be said on the other side.

There are Departments which are fully alive to the present situation, and in which after careful investigation it was not found possible to suggest further economies. We want the spirit which has produced that condition of things extending throughout the Service. We recognise that, after all, any scheme of reform must depend in large measure for its success on the goodwill and co-operation of the Departments.

My purpose has been to emphasize certain aspects of the subject with the object of fortifying public opinion, because I think it is clear that, without a strong and insistent public opinion, the reforms which are urgently called for at the present time will not be achieved.

Contempt of Court.

The following is the paper on this subject which was read by Mr. EDWARD A. BELL, of London, at the recent Provincial Meeting of the Law Society at Leeds:—

DEFINITION.

Contempt—always a dangerous pastime, from the nursery onwards through life—is difficult to define.

Before ascertaining the legal acceptation of the term, however, it is ventured to refer to that famous dictionary "fixed by the hand that bids our language live."

Contempt is there defined:—"The act of disposing otherwise"—"slight regard"—"scorn."

Turning to Viner's "Abridgement," the forerunner of Lord Halsbury's "Laws of England," one observes a chapter beginning "What shall be said of Contempt?" It is there described—"Contempt is a disobedience to the Court, or an opposing or despising the Authority, Justice, or Dignity thereof. It commonly consists in a party's doing otherwise than he is enjoined to do, or not doing what he is commanded or required by the Process, Order, or Decree of the Court."

To get closer in the appreciation of Contempt of Court, it may be Direct—sometimes called "Special"—that is, open, spontaneous, or constructive insult or resistance in *facie curiæ*; or Indirect—referred to in the White Book as "Ordinary"—that is, consequential Contempt, arising out of disobedience or neglect of the mandates or orders of the Court.

The Supreme Court and Inferior Courts of Record have jurisdiction to deal with Direct Contempt.

The Supreme Court alone has jurisdiction to deal with Indirect Contempt committed elsewhere than within the precincts of the Court. Courts "not of Record" have no jurisdiction in Contempt.

CONTEMPT DIRECT.

Treating first with Direct Contempt. In the old days Direct Contempt of Court, even though it be the mere simian violence of the missile order, or the mumbled expression of vulgar opinion, was visited with an instant fulmination of outraged dignity, and punishment was immediately imposed; the Judges acting upon no other testimony than their own immediate observation.

To borrow an ancient instance in support of this theory of immediate punishment of directly flagrant disobedience, may one mention the three words "*Remember Lot's Wife*"? This is the first recorded instance of punishment of Contempt of Court by means of the Pillory.

Then again the story of Prince Hal. This incident is referred to as a reminder that the famous Chief Justice of the King's Bench who upheld the Dignity of the Court—Sir William Gascoigne—was a native of Yorkshire. Was he not born, and did he not receive his immortal inspiration, at Gawthorpe?

In those days the man who threw a missile which struck a Judge, a Litigant, or even an Attorney, provided he and/or they were inside the Court, was punished on the spot; his right hand was struck off before the interested and no doubt sufficiently impressed spectators, who hazarded attendance upon mediæval Justice.

According to the Statute of Henry VIII, in part repealed but otherwise, is is hoped, obsolete, the striking off of the right hand was a sensational procedure—a veritable *auto-da-fé*. It still, it is presumed, can be performed in public. The Chief Surgeon of the King's Household must be present to sear the stump—the Sergeant of the Ewry with clothes for the Chief Surgeon to remedy any "damage feasant" to the medical attire.

The Sergeant of the Poultry must also be present with a Cock ready in his hand to wrap about the stump—a seemingly needless inconvenience for the fowl.

The culprit, after losing his right hand, had other consolations. The Sergeant of the Pantry gave him bread, and the Sergeant of the Cellar must be ready to give the Contemnor a "pot" of red wine; and thereupon the contempt was purged and the King's Peace satisfied.

But times have changed; the offending hand still remains intact, although quiescent during a sojourn as a first or second class misdemeanant in one of His Majesty's establishments for the correction of his contumacious subjects.

OSWALDANA.

There is a time limit even for Papers read before this learned Society, and should any Brother Member be sufficiently interested in the study of the earlier methods and conduct of Contemnor and Contemnee, and the retaliatory retribution involved, may he be respectfully referred to the exhortative and withal entirely learned and interesting text book on the subject which was published in 1895 by the late James Francis Oswald, Q.C.—a man noted for caustic mordant wit which was displayed in the Equity Courts of the nineties to the edification of the Bench and, possibly, for the education of suitors. Oswald died before his time; had he lived, the gaiety of life would have been enhanced by his contributions of wit and humour in many of the leading equity cases, which would have rendered their study a pleasurable pain.

It is within the memory of some of the Members of the Society that there was a certain Equity Judge who was not quite appreciative of Oswald's humour. That Equity Judge has long ago been called before, and no doubt has taken his place with, the other members of the Celestial Court of Appeal.

On one occasion this learned Judge said to Oswald, "It seems to me that you are endeavouring in every way to show your Contempt for the Court." "No, my Lord," was Oswald's reply, "I am endeavouring in every way to conceal it."

CONTEMPT AND/OR ATTACHMENT.

There is a difference between the effect of Committal for Direct Contempt and Attachment for Indirect Contempt. When committed for Contempt there is no appeal except on a point of law—excess of jurisdiction or other irregularity. When once an Order be made the contemnor has no opportunity of showing cause. He is arrested forthwith by the tipstaff. An Order is made the moment Direct Contempt has been committed, even in the absence of the contemnor. The period of punishment was unlimited till the "Story of Maria," hereafter considered, became case law.

Notice of Attachment has to be served on the "Recusant," and after arrest he is bailable and has the right of appeal.

THE STORY OF MARIA.

Some contemnors have, however, followed Lord Beaconsfield's maxim—"never apologize." A lady—it is a reported case, but we will call her Maria—disagreed with the judicial opinion of a very learned Equity Judge touching her rights to certain landed property. The aggrieved Maria continued to molest the tenants and occupiers with irrepressible and forceful aggression. The Chancery Judge, after solemn warning, committed her. She remained in "Chancery durance" for two years during which she was on numerous occasions extra-judicially informed she could be released if she undertook never again to wage war against the Court of Chancery. The lady obdurately refused—she was too comfortable. It is credibly believed she had a husband living; but, be that as it may, no attempt was made to obtain her release, and the Chancery authorities were (to use an expressive word) "quashed." Thereupon they called in the Official Solicitor—that last resort of nonplussed authority—and he, with the wisdom of his office forsaking Chancery for the King's Bench Division, deliberately applied to a very learned Commercial Judge "for directions." The Business Judge called Maria before him and told her (the lady *contra* notwithstanding) that she must go free; and she was not required to appear before the Court again. The Judge caused the Order for Release to be read to her, which was to the effect that a copy of the Order was to be given to the local police, and the Official Solicitor was also to keep a Supreme Court eye upon her for ever afterwards.

It is the proud boast of Englishmen that they look up to their womenfolk (from seats in the 'bus), and subsequent contemnors whose consciences impel them to continue in contempt will have more or less reason to thank "Maria." The Judge on Maria's enlargement gave an extra-mural or judicial direction that thereafter no contemnor should remain in prison longer than one year.

Upon the anniversay of internment the impenitent contemnor is ushered forth—when possibly his "native hue" of resolution "is sicklied o'er with the pale cast of thought."

CONTEMPTIVE ADVOCATES AND ATTORNEYS.

Without trespassing upon the amenities, may it be whispered that Counsel learned in the Law are peculiarly within the whiff and wind of Contempt.

Counsel must not address the Court unless he be engaged in the cause which is then being deliberated, except as *amicus curiæ*; nor must he sign pleadings which savour of improprieties—either scandalous, polemical or prolix. Is it not recorded by Oswald that one learned person who drew a replication in Chancery extending to six-score sheets, whereas all the pertinent matter might have been contained in sixteen, was ordered by Lord Keeper Egerton to be taken into the custody of the Warden of the Fleet, and he should then be brought into the Law Courts at about 10 in the forenoon?

The replication in Chancery was thereupon brought forth; a hole was cut in the midst of same, the draftsman's head was then placed through the aforesaid aperture and he was forthwith led round the Court bare-headed and barefaced. One recollects appreciatively stories of the pillory when poring over exaggerated abstracts of title—now in immediate prospect of abolition, thanks to the Law of Property Act, 1922, for which Gods and Goddesses be praised.

It is Contempt for Counsel to address the Court in unbecoming tones. It is believably recorded that Counsel was not committed when during a certain trial in the "Victorian" ages Justice nodded. Counsel with a peculiar emphasis said to the jury: "Gentlemen *you* must not close your eyes to this important fact" and "glancingly" referred to the "fact." Barristers must be soberly garbed—this is very apparent if one observes learned King's Counsel—but not in vacation. It was once thought by a learned Judge that a Barrister was in contempt if he wore a "mask of hair," *e.g.* a moustache and beard. The Judge complained of the "warped voice." This punctilious Judge was, however, mistaken, for it was not the unforensic whisker, but the shadow of a great nose which alike hindered the growth of the beard and impeded utterance.

Counsel is liable for Contempt if he insult a juryman in a Court presided over by one of His Majesty's Judges. A learned Counsel once whilst in Court thanked the Almighty that a juryman (who had interrupted him) was not the sole juryman to determine the issue. Counsel (after verdict given) was fined £50. It is reasonable to believe this was a sort of hard case—a juryman having the privilege to be impertinent to Counsel, although, during the course of a trial, if he eat or drink without leave of the Judge he is guilty of Contempt.

One is impressed with Oswald's subtle humour on reading the pages of his immortal treatise on Contempt. He tells us of Contemptuous Attorneys.

Attorneys are particularly amenable to the penalties of Contempt of Court, mostly the result of *trop-de-zèle*. May a word be said to the young lions and lionesses of our profession? One should always remain colourless and impassive, even at the acme of the litigatory moment of tension, and, indeed, upon all other occasions of strenuous professional endeavour. No opportunity should be attempted during the luncheon interval to discuss with the witness who may be then giving evidence before the Court any of the points of the evidence he has given or is to give. Witnesses should be avoided—not taken out to lunch. Communications with witnesses should be made only with the consent and directions of the learned Counsel who is conducting the case. It almost might be well to inform the other side of an intention to make a communication to the witness and request the other side to be present. No doubt a tragic situation, but one which is justifiable, for is it not recorded in the reported cases that it will not go well with an Attorney if he interfere with witnesses under examination during the progress of Justice.

Again referring to Oswald, one observes that, in the period before the Sex Disqualification Act, attorneys who did that sort of thing were whipped at the cart's tail. The profession was then a manly preserve.

Even nowadays "slight disregard"—as Dr. Johnson described Contempt—is visited with a course of simple life in a Penitentiary Asylum—for a busy Attorney very often a desirable interlude.

Attorneys were also properly punished for drafting too subtle or cunning, or long drawn out, or exorbitant pleadings, so humorously described in Hudibras:—

> To veer and tack and steer a cause,
> Against the weather gage of laws;
> And ring the changes upon cases,
> As plain as noses upon faces.

Tradition alleges that the Lord Chief Justice Coke (who, had he lived in these times, might have been a gas company's Attorney), but was it Coke who, sought diligently for Hudibras, but, like Junius, he escaped—anonymously immune.

In his Seventh Satire, Juvenal lampoons Lawyers, and refers to the custom of certain of our classic professional ancestors who, when they gained an important cause, festooned palm branches over the entrance to their offices.

"*Figantur virides scalarum gloria palmæ.*"

The poet, however, does not in terms refer to the subsequent attention of the Roman Law Society—unless a rather free rendering be given the poet's succeeding line—

"*Quod voces pretium*"

which a young scholar might indecorously translate into

"What price the mighty voices."

A Solicitor during litigation must not advertise or offer rewards for evidence. Should he do so, he is a contemnor and a suborner.

An Attorney is also liable to the consequences of the Writ *de contumace capiendo* if he convey to a newspaper information relative to matters which are *sub judice*.

When ordered by a Court to make a payment of money in the character of an Officer of the Court, the Solicitor—rich or poor—if he make default, is unrighteously in Contempt and duly and rightly committed, pursuant to the provisions of Section 4 of the Debtors Act, 1869, still unrepealed.

The Solicitor is also liable in Contempt if he take the name of Counsel in vain, and sign Counsel's name to pleadings not settled by Counsel.

An Attorney is liable to be committed for Contempt if he neglect to give to his clients notice of a mandatory Order of the Court; and the formula which in cant terms is known as the "funk" notice, endorsed on all mandatory Orders, in strict practice is not only addressed to the client, but inferentially to the Solicitor if he neglect to give his client due and speedy notice.

It has been adumbrated in certain places that a Solicitor commits contempt if he destroy his papers and/or refrain from keeping a diary. In parentheses may it be tentatively stated that if a diary be kept it should be in cipher. A Solicitor was very properly committed for destroying papers which were evidence in a pending cause—he was an Irishman; but what is the situation if a Solicitor find himself in the position of the drastic old dame who lived in a shoe, with loads of legal lumber littering up his roost? Government requisitions for paper during the war will for some time provide an adequate answer for its contemptuous destruction—even the Taxing Masters, so it is said, have dissolved in pulp many weary Bills of Costs. May it be urged that there is no Contempt in making away with "paper" controversial ephemera after the "Statute of Limitations" period has expired; although family archives should be kept at least during the existence of the Tenant for life.

Solicitors, though amenable to, are also protected by the doctrine of Contempt.

It is Contempt of Court to deceive an Attorney. A Client who gives wrong facts to enable his Solicitor to comply with an Order of the Court can be attached, and then probably the Client and Solicitor are subsequently alienated.

If a person obstruct an Attorney in the performance of his duty—*e.g.*, intimidating him against bringing an action—the obstructor is in Contempt.

Persons abusing an Attorney during the course of litigation, whether in the precincts of the Court or outside, are under liability to be committed for Contempt. Vituperation nowadays, however, has come to be regarded as the safety valve of disappointed litigants, and it is believed that the Council of this estimable Society "slightly regard" applications to commit an abuser of the other side's Attorney.

Anyone whose misguided fancy inclines him or her to pretend to be a Solicitor commits Contempt of Court. There is, however, a convenient and/or alternative remedy—the invocation of a local Police Magistrate or his correlatives, two Justices of the Peace.

[*To be continued.*]

Law Students' Journal.

Law Students' Debating Society.

At a meeting of the Society held at the Law Society's Hall on Tuesday, 3rd day of October, 1922 (Chairman, Mr. N. R. Fox Andrews), the subject for debate was "That in the opinion of this House capital punishment should be abolished." Mr. V. S. Aronson opened in the affirmative. Mr. R. O'Sullivan opened in the negative. The following members also spoke: Messrs. Baron, Crane, Oliver, Pleadwell and Rogers. The opener having replied, and the Chairman having summed up, the motion was lost by seven votes. There were twelve members and two visitors present.

Obituary.

Sir Robert Pearce.

Sir Robert Pearce, who died on 29th September at Downside-crescent, Hampstead, aged 82, won the Leek Division of Staffordshire for the Liberals in 1906, after unsuccessful attempts in 1895 and 1900, and represented it till 1918. In Parliament he espoused the cause of Daylight Saving, and he also promoted a Bill for forming a recreation ground between Hammersmith and Fulham. Having started as an accountant in his native town of Ipswich, he was admitted a solicitor, and later joined a well-known firm in Fore-street, now Baylis, Pearce & Co. He was prominent in the movement for bringing the City parochial charities under one management, and became solicitor to the City Parochial Foundation, Clerk to the Cripplegate Charities, and Vestry Clerk of Cripplegate. He was knighted in 1916.

Legal News.

Appointment.

Mr. W. H. Champness, Solicitor, one of His Majesty's Lieutenants of the City, has been appointed Undersheriff of the City of London for the year 1922-1923.

Death.

Rulter, Clarence Edwin, senior member of the firm of Rulter and Rulter, of Wincanton, died there on the 29th September 1922, in his 62nd year. He was admitted in 1884.

Dissolutions.

Robert Lewin Hunter and Edmund Sidney Pollock Haynes, Solicitors (Hunter & Haynes), 9 New-square, Lincoln's Inn. 1st October, 1922. Mr. Robert Lewin Hunter is taking into partnership Mr. Hugh Murchison Clowes, D.S.O., and Mr. Patrick Stormonth Darling, and will carry on business in future as "Hunters," at 9 New-square aforesaid. Mr. Edmund Sidney Pollock Haynes will carry on business in his own name at the same address. [*Gazette*, 29th September.

Frederick Bowker, Alfred Bowker, and Arthur Lawrance Bowker, Solicitors (Bowker and Sons), No. 17 Southgate-street, in the City of Winchester. 30th June, 1922. [*Gazette*, 22th September.

Partnership.

Mr. C. R. Enever has taken into partnership Mr. William Fuller, who has been associated with him for the past twenty-three years. The practice will in future be carried on by them at Broad Street House, London, E.C.2, under the style of C. R. Enever & Co.

General.

"The Life of Lord Moulton," written by his son, The Hon. H. Fletcher Moulton, which will be published by Messrs. Nisbet in October, will contain much that is of interest to lawyers, as his legal career covered nearly half a century. The book deals with his activities in many walks of life, and also contains some most interesting revelations as to the Explosives Department, and the fight to provide our troops with the ammunition that led to victory.

A message from Atlanta states that Mrs. W. R. Felton has been appointed to succeed the late Mr. Tom Watson as Senator. She is the first woman so honoured.

Mr. George Hinchcliffe (73), of Park-terrace, Thwaites Brow, Keighley, Yorks, formerly for forty-five years with the firm of Messrs. Wright and Waterworth (now Wright & Wright), solicitors, left estate of gross value £2,877.

Court Papers.

Supreme Court of Judicature.

Date.	Rota of Registrars in Attendance on Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Thursday Oct. 12	Mr. More	Mr. Hicks Beach	Mr. Synge	Mr. Garrett
Friday 13	Synge	Jolly	Garrett	Synge
Saturday 14	Garrett	More	Synge	Garrett
Date.	Mr. Justice Sargant.	Mr. Justice Russell.	Mr. Justice Astbury.	Mr. Justice P. O. Lawrence.
Thursday Oct. 12	Mr. Hicks Beach	Mr. Bloxam	Mr. More	Mr. Jolly
Friday 13	Bloxam	Hicks Beach	Jolly	More
Saturday 14	Hicks Beach	Bloxam	More	Jolly

Crown Office,
House of Lords,
2nd October, 1922.

Days and places fixed for holding the Autumn Assizes, 1922:

NORTHERN CIRCUIT.
Mr. Justice Acton.
Mr. Justice Branson.
Saturday, Oct. 21st, at Carlisle.
Thursday, Oct. 26th, at Lancaster.
Monday, Oct. 30th, at Liverpool.
Monday, Nov. 20th, at Manchester.

OXFORD CIRCUIT.
Mr. Justice Coleridge.
Saturday, Oct. 14th, at Reading.
Thursday, Oct. 19th, at Oxford.
Monday, Oct. 23rd, at Worcester.
Saturday, Oct. 28th, at Gloucester.
Thursday, Nov. 2nd, at Monmouth.
Tuesday, Nov. 7th, at Hereford.
Friday, Nov. 10th, at Shrewsbury.
Thursday, Nov. 16th, at Stafford.

MIDLAND CIRCUIT.
Friday, Oct. 13th, at Aylesbury.
Monday, Oct. 16th, at Bedford.
Thursday, Oct. 19th, at Northampton.
Monday, Oct. 23rd, at Leicester.
Thursday, Oct. 26th, at Lincoln.
Monday, Oct. 30th, at Nottingham.
Friday, Nov. 3rd, at Derby.
Wednesday, Nov. 8th, at Warwick.
Thursday, Nov. 30th, at Birmingham.

SOUTH-EASTERN CIRCUIT.
(1st portion.)
Mr. Justice Bray.
Monday, Oct. 16th, at Cambridge.
Thursday, Oct. 19th, at Norwich.
Wednesday, Oct. 25th, at Ipswich.
Saturday, Oct. 28th, at Chelmsford.

WESTERN CIRCUIT.
Mr. Justice Horridge.
Friday, Oct. 13th, at Salisbury.
Tuesday, Oct. 17th, at Dorchester.
Saturday, Oct. 21st, at Wells.
Friday, Oct. 27th, at Bodmin.

NORTH WALES AND CHESTER CIRCUIT.
Mr. Justice Shearman.
Saturday, Oct. 14th, at Carnarvon.
Wednesday, Oct. 18th, at Ruthin.
Saturday, Oct. 21st, at Chester.

Winding-up Notices.

JOINT STOCK COMPANIES.
LIMITED IN CHANCERY.
CREDITORS MUST SEND IN THEIR CLAIMS TO THE LIQUIDATOR AS NAMED ON OR BEFORE THE DATE MENTIONED.

London Gazette.—FRIDAY, September 29.

KNOWLES OXYGEN CO. LTD. Oct. 29. Francis D'Arcy Cooper, 14 George-st., Mansion House.
AFRICAN INDENT MERCHANTS LTD. Oct. 18. William B. Ormond, 32, Grainger-st. West., Newcastle-upon-Tyne.
FOWLERS WELL FARM LTD. Oct. 31. John Mallinson, 235, Westminster Brdidge-rd., S.E.1.
GLYNDWR COAL AND PITWOOD CO. LTD. Oct. 19. H. Dixon Williams, 15, 16, 17, Pembroke-bldgs., Swansea.
HERBERT SYKES & CO. LTD. Oct. 31. N. Williamson, 8, Exchange-bldgs, Bradford.

London Gazette.—TUESDAY, October 3.

PREMIER SUPPLY CO. (CARDIFF) LTD. Nov. 8. John W. Williams, 5, St. Andrew's-crescent, Cardiff.
G. ROBINSON AND CO. LTD. Oct. 10. Frederick A. Bell, 2, Billiter-av., E.C.3.
HOOK SHIPPING CO. (1920) LTD. Nov. 3. Thomas W. H. Roberts, Hook Colliery, nr. Haverfordwest.

Resolutions for Winding-up Voluntarily.

London Gazette.—FRIDAY, September 29.

The Brazilian Pastoral Industries Ltd.
The Abingdon Co. Ltd.
The Daily Herald Ltd.
F. G. Metal Cap and Box Co. Ltd.
F. R. Cook & Co. Ltd.
The British Amalgamated Paint Co. Ltd.
Cave & Read Ltd.
Corporation Services Ltd.
Bideford & Bristol Steamship Co. Ltd.
Magude Sugar Estates Ltd.
Gooldun Shipping Co. Ltd.
Rapid Submersible Ship Cleaner Co. Ltd.
Buxted Agricultural Society Ltd.
Derby Crown Glass Co. Ltd.
Down Hall Farm Ltd.
Samuelson Transport Co. Ltd.
Mendip Press Assets Realisation Co. Ltd.
P. Barr & Co. Ltd.
Irvine Brook Ltd.
Hart & Ventura Co. Ltd.
L. A. Webster Ltd.
D. I. P. Theatres Ltd.
The Walmer Private Hotel, Bournemouth, Ltd.
British Brazing Co. Ltd.
The Penmark Shipping Co. Ltd.
Hobday & Sons Ltd.
Endymion Steam Trawling Co. Ltd.

London Gazette.—TUESDAY, October 3.

C. H. Haswell & Co. Ltd.
J. C. Way and Sons Ltd.
The Continental Wire Co. Ltd.
G. Robinson and Co. Ltd.
Jules Karpeles & Co. Ltd.
W. J. Davies & Co. Ltd.
Ripon Public Cocoa House Co. Ltd.
Kumfy Motors Ltd.
The Castle (Neath) Hotel Co. Ltd., Neath.
Bedford Chemical Co. Ltd.
Apex Mill Ltd.
William Shepherd & Sons Ltd
West End Tailors' Co. Ltd.
Crossley & Croasdale Ltd.
Bevan & Co. (Iron and Brass Founders) Ltd.
Tynemouth Palace Co. Ltd.
The Anglo-Italian Syndicate Ltd.

Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, September 29.

BAILLIE, DUNCAN, Rishton, Lancs, Coal Merchant. Blackburn. Pet. Sept. 11. Ord. Sept. 25.
BATES, WILLIAM, Birmingham, Draper. Birmingham. Pet. Sept. 25. Ord. Sept. 25.
BERRETT, A. M., Croydon, Confectioner. Croydon. Pet. Aug. 17. Ord. Sept. 25.
BRAZIL, JOB, Bradford, Tailor. Bradford. Pet. Sept. 27. Ord. Sept. 27.
BRINDLEY, CECIL, Kinson, Dorset, Poultry and Fruit Farmer, Poole. Pet. Aug. 17. Ord. Sept. 27.
BYRON, AUGUSTUS W., Clarence Gate-gardens. High Court. Pet. Aug. 12. Ord. Sept. 25.
CHESHIRE, WILLIAM E., Edgware, Wine Merchant. St. Albans. Pet. July 14. Ord. Sept. 20.
COOPER, JOSEPH P., Branstone, Staffs, Haulage Contractor. Burton-on-Trent. Pet. Sept. 26. Ord. Sept. 26.
DAWKINS, J., Senior, and DAWKINS, J., Junior, Harlow, Essex, Coal Merchants. Hertford. Pet. Sept. 5. Ord. Sept. 25.
DAY, FRANCIS J., Newman-st., W. High Court. Pet. Aug. 31. Ord. Sept. 25.
FENTON-LIVINGSTONE, THOMAS F., Bournemouth. Dealer in Sports Requisites. Poole. Pet. Sept. 26. Ord. Sept. 26.
FERNANDO, JOHN H., Great Portland-st., Comm'n ion Agent. High Court. Pet. July 1. Ord. Sept. 25.
FLETCHER, ALBERT, Heywood, Lancs, Greengrocer. Bolton. Pet. Sept. 25. Ord. Sept. 25.
FLETCHER, ALFRED, Shirebrook, Derbyshire, Coal Miner. Nottingham. Pet. Sept. 26. Ord. Sept. 26.
FORSYTH, ALEXANDER, Satley, Durham, Farmer. Durham. Pet. Sept. 25. Ord. Sept. 25.
GOUGH, WILLIAM J., Llandilo, Motor Engineer. Carmarthen. Pet. Sept. 25. Ord. Sept. 25.
HOLLIS, ISAAC J., Filby, Norfolk, Fisherman. Great Yarmouth. Pet. Sept. 27. Ord. Sept. 27.
HUMPHREYS, WILLIAM J., Wallington, Removal Contractor. Croydon. Pet. Aug. 18. Ord. Sept. 25.
JONES, JOHN W., Younger, Warrington, Coal Merchant. Warrington. Pet. Sept. 26. Ord. Sept. 26.
LOFTIS, JOHN W., Cleethorpes, Skipper. Great Grimsby Pet. Sept. 26. Ord. Sept. 26.
MASON, JOHN W., Blyth, Tailor. Newcastle-upon-Tyne. Pet. Sept. 25. Ord. Sept. 25.
MASTERS, MABEL M., Coventry, Mistress Draper. Coventry. Pet. Sept. 27. Ord. Sept. 27.
MILLER, AVES A., Clowne, Derby, Hardware and General Dealer. Sheffield. Pet. Sept. 23. Ord. Sept. 23.
MOORE, HENRY, St. Martin's-court, Journalist. High Court. Pet. Aug. 21. Ord. Sept. 27.
MOUNTAIN, WILLIAM E., Billericay, Auctioneer. Chelmsford. Pet. Aug. 28. Ord. Sept. 27.
NELSON, FRANK, Sheffield, Builder and Contractor. Sheffield. Pet. Sept. 25. Ord. Sept. 25.
NEWCOMBE, FRANK, Guisborough, Ironmonger. Stockton-on-Tees. Pet. Sept. 1. Ord. Sept. 25.
OTTWAY, EDWARD S. F., and BATTRICK, PERCY H., Devonport, Motor Engineers. Plymouth. Pet. Sept. 25. Ord. Sept. 25.
PIPE, EDGAR P., King's Lynn, Fancy Goods Dealer. King's Lynn. Pet. Sept. 26. Ord. Sept. 26.
RALPH, ISAAC H., Cheltenham, Greengrocer. Cheltenham. Pet. Sept. 26. Ord. Sept. 26.
SHAEMAN, GEORGE, Sheffield, Motor Body Builder. Sheffield. Pet. Sept. 25. Ord. Sept. 25.
TAYLOR, ISHMAEL, Worsthorne, Lancs, Mill Manager. Burnley. Pet. Aug. 1. Ord. Sept. 25.
THOMSON, GEORGE, Manchester, Chair and Cabinet Maker. Manchester. Pet. Sept. 6. Ord. Sept. 26.
THOMPSON, GEORGE W., Wisbech-Saint-Peter, Innkeeper. King's Lynn. Pet. Sept. 25. Ord. Sept. 25.
THORNE, FREDERICK J., Weston-super-Mare, Taxicab Proprietor. Bridgwater. Pet. Sept. 26. Ord. Sept. 26.
WHITE, MABEL, Croydon, Boarding-house Keeper. Croydon. Pet. July 7. Ord. Sept. 25.

Amended Notice substituted for that published in the *London Gazette* of Sept. 19, 1922.

HEATON, JOHN H., Blackpool, Ironmonger. Blackpool. Pet. Aug. 16. Ord. Sept. 15.

London Gazette.—TUESDAY, October 3.

ASQUITH, HARRY, Leeds, Manufacturing Confectioner. Leeds. Pet. Sept. 29. Ord. Sept. 29.
BARRATT, WILFRED, Manchester, Provision Dealer. Manchester. Pet. Sept. 29. Ord. Sept. 29.
BARROW, JOHN S., Leicester, Tailor. Leicester. Pet. Sept. 29. Ord. Sept. 29.
BECTON, EDWARD, Heywood, Lancs, Joiner. Bolton. Pet. Sept. 28. Ord. Sept. 28.
BOWMAN, FRANK, Manchester, Manufacturer's Agent. Manchester. Pet. July 22. Ord. Sept. 28.
CHAPLIN, COLEMAN, Bethnal Green-rd., Tailor. High Court. Pet. Aug. 29. Ord. Sept. 29.
CHINA, FRED P., Hackney, Manufacturer of Dresses. High Court. Pet. Sept. 27. Ord. Sept. 28.
DATE, DOUGLAS S., Guildford, Farmer. Guildford. Pet. Sept. 28. Ord. Sept. 28.
DEARLOVE, JOHN W., York, Wholesale Paper Bag and General Merchant. York. Pet. Sept. 29. Ord. Sept. 29.
DE CESARI, ENEA, Ampthill-sq., N.W., Manufacturer of Vermin Killer. High Court. Pet. Sept. 7. Ord. Sept. 29.
FISHER, ALBERT H., Halifax, Grocer and Beerseller. Halifax. Pet. Sept. 28. Ord. Sept. 28.
HANN, LEONARD, Bedford-hill, Balham, Estate Agent, Wandsworth. Pet. June 28. Ord. Sept. 28.
HAYES, H. C., Cockspur-st., S.W. High Court. Pet. July 11. Ord. Sept. 27.
HEDLEY, JOHN, Fernlea-rd., Balham. Wandsworth. Pet. July 11. Ord. Sept. 28.
HYAMS, ISADORE, Francis-st., W.C. High Court. Pet. Aug. 23. Ord. Sept. 27.
KNOWLES, ERNEST, Gaywood, Norfolk, Unregistered Dentist. King's Lynn. Pet. Sept. 30. Ord. Sept. 30.
MUER, MARK, Cannon Street-rd., E., Wholesale Provision Merchant. High Court. Pet. Sept. 30. Ord. Sept. 30.
NICHOLSON, ALBERT, Lincoln, Motor Engineer. Lincoln. Pet. Sept. 29. Ord. Sept. 29.
OGDEN, WILLIAM E., Stockport, Electrician. Stockport. Pet. Sept. 28. Ord. Sept. 28.
OWEN, THOMAS R., Abertridwr, Draper. Pontypridd. Pet. Sept. 29. Ord. Sept. 29.
OWENS, WILLIAM H., Llanelly, Labourer. Carmarthen. Pet. Sept. 28. Ord. Sept. 28.
RICHARDS, GERTRUDE M. J., Lincoln, Licensed Victualler. Lincoln. Pet. Sept. 29. Ord. Sept. 29.
SACKMAN, JUAN E., Vauxhall Park. High Court. Pet. May 19. Ord. Sept. 28.
SHERMAN, B., Stratford, Chemical Manufacturer. High Court. Pet. Aug. 16. Ord. Sept. 28.
SKRENDER, SIGURD A., Queenhithe, Paper Merchant. High Court. Pet. Aug. 25. Ord. Sept. 28.
SMITH, STANLEY H., Birmingham, Cooked Meat Shop Proprietor. Birmingham. Pet. Sept. 16. Ord. Sept. 29.
SQUIRES, JOSEPH H., Dewsbury, Rag Merchant. Dewsbury. Pet. Sept. 28. Ord. Sept. 28.
SWIFT, ALBERT E., Bournemouth, Merchant. Poole. Pet. Sept. 1. Ord. Sept. 29.
THOMAS, HENRY, Mountain Ash, General Dealer. Aberdare. Pet. Sept. 28. Ord. Sept. 28.
THOMPSON, RICHARD C., Sleaford, Baker and Confectioner. Boston. Pet. Sept. 28. Ord. Sept. 28.
THRAVES, CLARA, Sheffield, Wallpaper Dealer. Sheffield. Pet. Sept. 29. Ord. Sept. 29.
TRAVIS, JAMES, Stalybridge, Dairy Produce Merchant. Ashton-under-Lyne. Pet. Sept. 29. Ord. Sept. 29.
VAUGHAN, GEORGE, Margate, Showman. Canterbury. Pet. Sept. 8. Ord. Sept. 30.
WHITE, W. R., Great Pulteney-st., Electrical Agent. High Court. Pet. Aug. 29. Ord. Sept. 28.

Amended Notice substituted for that published in the *London Gazette* of September 22, 1922:—

HARRIES, OLIVER R., Pontypridd, Rubber Merchant. Pontypridd. Pet. Sept. 2. Ord. Sept. 19.

GENERAL INDEX.

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